BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR INCREASE IN RATES BY FLORIDA POWER & LIGHT COMPANY. — DOCKET NO. 080677-EI

2009 DEPRECIATION AND DISMANTLEMENT STUDY BY FLORIDA POWER & LIGHT COMPANY. — DOCKET NO. 090130-EI

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VOLUME 2

Pages 121 through 266

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PROCEEDINGS:	HEARING
COMMISSIONERS PARTICIPATING:	CHAIRMAN MATTHEW M. CARTER, II COMMISSIONER LISA POLAK EDGAR COMMISSIONER KATRINA J. McMURRIAN COMMISSIONER NANCY ARGENZIANO COMMISSIONER NATHAN A. SKOP
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PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
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MS. BRADLEY: We want reliable utilities, and we are not here to argue against that or to say that they are not entitled to be profitable companies. What we are saying is that today in this economy it's not reasonable for this type of rate increase. People simply can't afford it. It's not that it is inconvenient or they don't want it. They can't afford it.

We conducted service hearings throughout the state, and the company had some people that came in and talked about the energy efficiency programs and putting in new energy efficient appliances and that type of thing. But then we heard from a lot of people that came in and said I would like to do that, too, but I can't afford it. They were doing extreme conservation measures; blankets over the windows to try to keep it cooler, not turning on their air conditioners at night, and during the day only turning them on if to got over 85. One lady talked about taking her neighbor to the hospital after she suffered heat stroke because she couldn't afford to turn on her air conditioner. Those are the things that we are concerned about and that we are already seeing. And if a rate increase like this is granted, we are going to see a lot more of it.

We heard about a lot of the folks that said they can't afford it. They are already doing things like only taking their medication every other day. We heard them talk about what they are eating and how little they are eating and the lack of variety of food. They are not going out and spending a lot of money in big fancy restaurants. These are people that are struggling simply to eat.

We heard from the mother that talked about trying to get help from her parents who are on fixed incomes that they would send her a jar of peanut butter for her little boys. And these people are struggling, and they told you they can't afford an increase.

We heard some seniors that talked about they might have to move out of state to live with their family, and as much as they love their family, they wanted an independent life. We heard others that said they might have to just move out of state to someplace where it was more affordable because they couldn't afford rate increases. They are just barely getting by. And they talked about the fact that they were taught to live within their means, but their money that they retired on is just not going as far. And when you keep raising everything, especially utility rates, which they have done everything they could to reduce, they just can't afford to pay any more.

Now, we went to a number of hearings where people came in and were very complimentary on the reliability of the service that Florida Power and Light was providing. And we commented on that, and that was about the time people started coming in and talking about their neighborhoods and the electrical shortages that they were experiencing. And the fact that they had lost appliances more than once in the last couple of years because of those power spikes and outages and this type of thing.

And there were people that talked about sitting after, not a hurricane, but just a bad storm and looking across the road and seeing their neighbors who had a different utility, and they all had electricity, and they were sitting there in the heat in the dark. And those people were upset about the service that they were being provided. There were also some that complained about the tree trimming or what they termed lack of tree trimming and their complaints, and the fact there had been some fires around their homes because of the problems with this.

Now, they talked about a return on equity and the fact they need that, but we also heard at the service hearings from investors and stockbrokers, and they said that is ridiculous. This is a monopoly with guaranteed rates and they don't have the risks that other companies have. The other companies are having to go out and compete for business, so they need a higher return on equity to show that they are not as big a risk. But that is not the problem with a utility. They are one of the safest risks for investors. And the investors and the stockbrokers that came in were just amazed that anybody would ask for this high of an increase when they are a monopoly.

Some have said an 11 or $12 increase on your power bill is not that big a deal. And the customers came in and they testified about, well, it is for me. That is my co-payment for my doctor bill. That is my co-payment for my medication. That is the food for my kids this week. This is a big deal to people. It is not just a little bit of money.

We also talked about the trickle down effect that this will have. The schools, some of the schools came in and said we are cutting and doing everything we can to conserve energy, but we just -- we are suffering cuts, and if our electricity rates go up, we don't know what we are going to do. You can't say, well, that child can come to school but the other one can't. We may have to cut teachers. They are talking about sacrifices they shouldn't be having to make. But if this electricity rate is approved they may be looking at doing some of those things.

We had people from grocery stores that came in. Well, they are mandated to keep temperatures at certain levels for health and safety issues. There is only so much they can do to reduce, and you think of the amount of electricity they are required to use. So, this is a trickle down to a lot of businesses. And the businesses, I'm not sure which ones are in favor of this, but the ones we heard are very much opposed to it because it may mean cutting staff. It may mean customers not being able to purchase their goods and services. It is affecting the small businesses and a lot of them are already going under, so this is going to have a huge effect on them.

One other thing I wanted to mention was the fact that this is fair and affordable rates that you all are mandated to provide, but it is not just fair and affordable and reasonable for the utility. It is supposed to be fair and reasonable for the citizens, as well. And they came out en mass to tell you they were opposed to this.

The comment was made about, well, it is just not a good time for an increase maybe. Nobody really, you know, wants it. But it is not just an issue of wants, it is an issue of people simply can't afford it. For some of these people it is life and death. They talked about family members on ventilators and various things that they have to have electricity. And they just wanted to be able to afford to pay their bills, and they asked you to please not grant this increase. This is true of the businesses as well as the residential consumers. They are all opposed to this increase and we would ask that it not be granted.

Thank you.

CHAIRMAN CARTER: Thank you.

Mr. Moyle. Who is next?

MR. WISEMAN: Mr. Chair.

CHAIRMAN CARTER: Do you have the list, Chris?

So he has got the time, so, okay. We are going follow the list that was provided by Mr. McGlothlin.

You're recognized.

MR. WISEMAN: Thank you, Mr. Chairman and Commissioners. I am Ken Wiseman for the South Florida Hospital and Health Care Association. At the outset, I want to make clear that SFHHA does not believe that the evidence in this case will support the more than one billion dollar rate increase that FPL is seeking effective January 1, 2010. And we don't believe that the evidence will support the additional $247 million increase that FPL is seeking effective January 1, 2011.

The evidence will show that the requested increases that FPL is seeking are based in large part on an inflated return on equity that FPL does not need to retain its A bond rating. FPL has low risk stable operations, and FPL Group's own CEO, Mr. Hay, has boasted that FPL has, quote, unquote, the best utility franchise in the nation.

Commissioners, this is not a risky utility that needs a high return on equity to attract investor capital. As a result, we believe that the evidence will show that FPL, the regulated utility, does not need a 12-1/2 percent return as requested. And ratepayers should not be required to fund a return on equity that FPL Group may need to support its unregulated activities.

Commissioners, the evidence will show that FPL's requested base rate increases are also based on claimed O&M expenses and depreciation expenses that are far in excess of what FPL has cost justified. The bottom line for SFHHA is we believe that rather than supporting a base rate increase, the evidence in this case is going to demonstrate that FPL's rates should be reduced by more than $300 million.

But as important as the dollars are that are involved in this case, I actually don't want to focus my remarks this afternoon on the dollar increase that FPL is requesting. I want to focus on two key components of FPL's request that if approved will have long-term effects far beyond 2011. One of those components is the generation base adjustment, or GBRA, that Mr. McGlothlin spoke about briefly. And the second is FPL's proposal to adjust cost allocation in a way that FPL claims will bring ratepayers into parity.

Commissioners, it has been, as you heard, 24 years since FPL brought a case before this Commission in which base rates were reset as a result of a litigated result. I submit to you that if FPL obtains authorization for these two key components, it will be 24 years or longer, if ever, that FPL is back before you seeking another rate increase. And the reason is it won't need to seek your authorization for a rate increase. Increases in rates will happen automatically. FPL will have obviated the need to seek your scrutiny of rates to increase rates, and FPL will have absolutely no incentive to have its rates scrutinized by the

Commission.

The mechanisms are designed in such a way that FPL's rates will be on a one-way trajectory of ever increasing rates producing ever increasing returns. And rather that creating parity, as FPL alleges, the allocations of cost that FPL is requesting will put in place a structure that will lead to commercial class customers year after year overcontributing to FPL's inflated returns.

I want to explain very succinctly how this is going to happen, so let's talk about the GBRA first. With each new generating facility that FPL places into commercial operation, FPL's rates will -- its rate base will be increased and its base rates will be included -- will be increased to include the capital costs of the new plant.

Now, typically if we look at the past these generation plants have averaged maybe $800 million. So what will happen, well, FPL's rate base will be adjusted upward to reflect the addition of the capital additions and the cost of service effect will be added to the amount of the rate base. That adjustment is a one-way street as proposed by FPL.

Under FPL's proposal there will be no adjustment to base rates to reflect depreciation that is taking place since the last time base rates were reset. There will be no adjustment to reflect the retirement of facilities that have taken place, including the retirement of older generating facilities that are being replaced by the new ones that FPL is putting into rate base through the GBRA.

There also won't be any adjustment to rates to reflect customer growth. So, FPL will recover what will amount to an artificially inflated cost of service based on billing determinants that understate the level of consumption that is taking place on FPL's system.

Commissioners, this is for ratepayers the ultimate double whammy. With each new customer that is added to FPL's system and with each increase load that is added to FPL's system, FPL will recover an amount in excess not only of what it needs to recover to collect its legitimate cost of service, but even to collect its inflated cost of service that doesn't reflect depreciation or retirement of plant. And the way FPL would skew parity among rate classes will exacerbate this overrecovery.

Commissioners, the evidence is going to show two critical factors that distort the use of FPL's parity study on a going-forward basis. First, the evidence is going to show that commencing in 2007 there was a tremendous reduction in the growth of the commercial -- I'm sorry, in the growth of the residential class. And, in fact, in 2008 for the first time in its history, FPL experienced negative customer growth. The evidence will also show that FPL's forecasting of that trend in customer growth will continue into 2011, but will start reversing toward the latter part of that year.

But the current customer growth that FPL is forecasting post-2011 does not maintain the status quo relationship between rate classes. The evidence will show that FPL is forecasting that through 2018 the residential class consumption will grow by about six percent. But it is also forecasting that commercial class consumption will grow by approximately 25 percent. So, by setting rates based on the class allocation study performed by FPL, which by the way, our evidence will show is wrong in any event, FPL will have been successful in having rates designed in a way that over time leads to increasing overcontribution by the commercial class customers and a significant overrecovery of costs and inflated returns by FPL.

Now, in its rebuttal testimony, FPL has characterized SFHHA's position as an attempt to shift costs from commercial class customers to residential customers. And this afternoon we heard FPL state that our positions that are -- our position is that commercial class customers shouldn't pay their fair share and that residential customers should pay more than their fair share.

Commissioners, FPL's argument is a smoke screen. First, our proposals, if adopted, will lower rates for all customers on FPL's system. Second, our proposal does not attempt to shift costs from commercial class customers to residential customers. It does seek to properly align costs where they belong.

FPL's opposition, I would submit, is an attempt to put in place a class allocation system that will allow FPL to gain grossly inflated returns as the commercial class grows over time much more rapidly than the residential class. And that is exactly consistent with what FPL is forecasting.

So to conclude where I began, if FPL is successful in obtaining authority for the GBRA and its proposed class allocation system, I submit to you that FPL will never voluntarily return to this Commission for review of its rates because the mechanisms will be in place for FPL to earn inflated returns that automatically adjust upward without any recognition of offsetting factors, such as depreciation, plant retirement, or increased billing determinants to reflect customer growth.

Commissioners, SFHHA firmly believes that the Commission should reject this attempt by FPL, which is effectively an attempt to sidestep your oversight as FPL implicitly is asking for authority to do.

Thank you.

COMMISSIONER McMURRIAN: Thank you, Mr. Wiseman.

I think that brings us to Mr. Moyle.

MR. MOYLE: Yes. Thank you, Madam Chairman.

And for the record, Jon Moyle, Keefe, Anchors, Gordon and Moyle, and I, along with Vicki Kaufman, will be representing FIPUG in this proceeding. We are privileged to represent FIPUG, which is a group of large users of electricity, companies that mine and produce phosphate, companies that harvest timber and produce paper products that many of us use every day, companies that process, handle, and distribute food that we eat. Its members employ a lot of people in this state. They pay taxes and they are active in this community.

Before I delve into a couple of issues, I wanted to start with a thank you and a compliment. This case has had a lot of discovery, a lot of depositions, and counsel have conducted themselves professionally, and I know will continue to do so. I think it has been a good proceeding thus far, and I know the next two weeks will continue to be so. And to thank you and the Commission staff for the attention that you are going to give to this case, I know.

We have not had a rate case, as people say, in 24 years. I think that is unfortunate, because I think rate cases are a key component of the regulatory compact. But this is the first one with this utility company in 24 years. And in prefiled testimony, FPL points out it that they provide service to approximately half of the Floridians in this state. I think it is 48 percent of the people living in Florida take service from FPL. That is a big responsibility when setting rates to get it right. And you are going to hear about the economic conditions.

FIPUG would maintain that the end result in this case should be a lot closer to where Public Counsel, who is representing the consumers of the state of Florida, suggests it should be, both in terms of the overall number and the return on equity than the number suggested by Florida Power and Light.

FIPUG members are surely not immune from the difficult economic times that are facing our state. FPL's chief financial officer, Mr. Pimentel, will tell you that the load from industrial customers is most at risk during difficult economic times and that industrial customers as a whole, not within a specific industry, but as a whole suffer the most, I guess, in terms of the frequency. They are the first ones to either cut back operations or close. And this is an important fact, I think, as we move forward, hopefully, with an economic recovery that you should not take actions that disadvantage large consumers of electricity.

The Commission has applied previously a practice that when it allocates any revenue increase no class should receive an increase greater than 1.5 times the system average percentage increase in total. And the Commission reiterated this policy as recently as the TECO rate case. FPL ignores this longstanding Commission practice with what it proposes.

We will have Witness Jeff Pollock, who will delve into detail, but I wanted to set the stage briefly and indicate to you that FPL is proposing to increase rates to customers under the general service large demand by 54 percent. Which if this is approved, it would mean that those customers are experiencing a 216 percent increase compared to the system average percentage price increase.

Similarly, for customers in the

commercial/industrial load, one rate class, they are facing a 58 percent rate increase over current base rates, and this translates into a 231 percent increase compared to the system average increase. Mr. Pollock will give you some other examples, but we would encourage you to be mindful of your policy you have applied that does not allow for any increase to go over 1.5 times.

And we would also urge you, as Public Counsel does, you know, if a customer is paying a monthly electric bill, a big industrial customer of $100,000, and these rate increases proposed by the FPL, two of them that I just identified are over 50 percent, then their bill is going to be over 150 grand a month, which is not what you want to be doing as people are trying to dig out of this unfortunate recession. So we would ask you to keep that in mind.

There is a rate design issue that Mr. Pollock will testify to that I don't really think there is disagreement between FIPUG and FPL, and it is FPL's proposal to continue to use a 12 CP coincident peak and 1/13th average demand approach. That is FPL's proposal. It is acceptable to FIPUG, and it shouldn't be -- it shouldn't be changed.

Let me touch on a few other topics that you are going to hear quite a bit of testimony about. Some of my intervenor colleagues have already touched upon it.

First is the return on equity. You have heard a lot about return on equity. The range currently is -- FPL is proposing 12-1/2. I think Public Counsel is at 9-1/2. The spread indicated by this is close to $400 million. So out of a billion dollar rate case this return on equity is a big issue. You heard a lot of testimony about it in other proceedings, and a key component of it is what the capital markets need to invest their capital. Florida Power and Light will argue we need a higher return on equity so we can attract capital. Florida Power and Light is a good company. They are recognized as a good company by Wall Street. Their ratings are in the A range.

You recently had a case with Tampa Electric. There was a lot of testimony on ROE in Tampa Electric. You guys ended up and concluded that Tampa Electric, which was a BBB, needed a return on equity of 11.25. Staff's recommendation was lower. You all exercised judgment. 11.25 was the number that you set to attract capital for TECO, a BBB company. Logically, it seems to follow that Florida Power and Light with an A rating --

COMMISSIONER ARGENZIANO: Excuse me.

MR. MOYLE: -- does not need --

COMMISSIONER ARGENZIANO: Chair.

COMMISSIONER McMURRIAN: Commissioner Argenziano.

Chris, can you hold the time?

Commissioner Argenziano, go ahead.

COMMISSIONER ARGENZIANO: Yes. Can you hold the time for a minute. I'm kind of getting tired of everybody saying the Commission voted for the TECO. I did not, and that was my opinion at the time. I didn't find a basis for that. So I just want to make it very clear while the majority of the Commissioners did, I did not. And for whatever reasons, and I am not casting any kind of judgments, I just want to make it very clear once and for all, everybody sitting there, the entire Commission did not vote for the TECO increase.

Thank you.

COMMISSIONER McMURRIAN: Thank you.

Go ahead, Mr. Moyle.

MR. MOYLE: Commissioner Argenziano, FIPUG supports a lower number on the return on equity. And the point that we are simply trying to make is that if TECO gets an 11.25, which has higher risk than Florida Power and Light, Florida Power and Light sure doesn't need 11.25 if you follow economic theory and principle to attract capital. It can make do with a number that is much less than that, given the better ratings that it has. So we are going to explore some time with witnesses on that concept.

Also, FPL has a pension. The pension is used to invest money to pay their employees. You will hear that the pension fund, the target range is less than -- less than eight percent.

The rate case that you are hearing today FIPUG contends is a key element of the regulatory compact. If you look at Chapter 366, there is a whole lot of statutes in there that deal with setting rates. You all have been around the state listening to consumers, and it is the first litigated case in more than 20 years, a generational event. FIPUG contends that is unfortunate. That rate cases are part of the process, and they are not unhealthy, they are not bad. Arguably, they are analogous to a check up. You go to a doctor. Hopefully it will work out, but there is maybe some good news, some bad news, but that rate cases are something that should not be shied away from.

Now, Florida Power and Light will suggest to you that, well, rate cases -- I believe they will say, well, rate cases really aren't that great of a thing. And from their perspective they are probably not, because it is a two-way street. You can maybe get an increase in rates, but you can also maybe have a decrease in rates. Public Counsel is saying you should be 350 million under your current rates. They are in here asking for a billion. So it is a healthy conversation and it should continue. And we would urge you to not to adopt mechanisms that make it less likely to have rate cases in the future.

Over the course of years there have been a whole host of mechanisms that have taken things out of base rates and put them into clauses. The environmental cost-recovery clause, the capacity cost recovery clause, the nuclear cost-recovery clause. We could go on and on. And each of those makes it less likely that you are going to have a rate case.

Counsel for South Florida made this point. I would elaborate on it. You are being asked to continue that trend, which we think is not a good one to make it such that who knows when you will have another rate case. The GBRA mechanism is such a device. They are asking you to allow big capital projects, power plants to be rolled in under this mechanism. We don't think that is appropriate. We think if it is going to be considered, it is not appropriate to do it in a piecemeal fashion in this docket. It should be done in a rulemaking context, because it shouldn't -- if you decide it is good policy, it ought to apply or not apply to everyone uniformly, and is not appropriate for this settlement -- I'm sorry, for this docket.

The other point on that is it was the result of a settlement. There was give and take. When you are in a settlement conversation there is horse trading that goes on. The GBRA mechanism was put in place, but the settlement ended at the end of this year and it should not be continued.

The subsequent year adjustment is another type of mechanism that would keep you away from a rate case. You are being asked to look beyond the horizon into 2011 with respect to the subsequent year adjustment. We don't think it is proper. We think the information is not sound. It is speculative. Things change, and you should use your discretion and not move forward with the subsequent year adjustment.

Finally, a quick point on the storm accrual. Florida Power and Light has a line of credit with credit facilities over 2.5 billion. They will use that to help with storms. They have the ability to recover with a surcharge securitization. Asking for another 150 million a year annually for storm accrual is not warranted and it should not be allowed.

The final point. I just want to respond briefly to opening comments that Florida Power and Light made. Mr. Chairman, I might date myself a little bit, but it reminded me a little bit of a boxer, Muhammad Ali, who was heavy champion, and he had something that he used on opponents called a bolo punch, where he would take his right hand and he would wave it around up here, wave it around up here, and the person would look at his right hand, and then he would pop them right in the nose with his left hand. And I think that is what FPL is suggesting, a bolo punch with respect to the fuel clause.

Look at the fuel clause. Rates are going to go down. Rates are going to go down. But I think you have to keep your eye on what is in front of you. And for half of the Floridians in the state, don't watch -- don't watch the right hand, which is waving around, keep your eye on the left-hand or else the consumers are going to end up on the mat.

Thank you.

COMMISSIONER McMURRIAN: Hold on just a minute.

Commissioner Skop.

COMMISSIONER SKOP: Thank you. Just real quickly. I was wondering if that is the rope-a-dope.

CHAIRMAN CARTER: Sugar Ray had the bolo bunch.

COMMISSIONER McMURRIAN: Mr. Wright.

MR. WRIGHT: Thank you, Commissioner McMurrian, Commissioners, members of the public.

I am Schef Wright, and I have the privilege of representing the Florida Retail Federation in this landmark billion dollar a year plus rate case.

The Commission's overarching statutory mandate is to regulate the public utilities that are subject to its jurisdiction, including FPL, in the public interest. More specifically with regard to rates, the Commission is charged to set rates that are fair, just, and reasonable both to the utility and to its customers.

We, the Florida Retail Federation, your Public Counsel, the Attorney General, the Industrial Power Users, the Hospital Association, and virtually all of the other consumer intervenors in this case believe that FPL's request will, if granted, produce rates that are demonstrably unfair, unjust, unreasonable, and contrary to the public interest.

Rates must be fair, but they may not be confiscatory to the utility. This is what the oft cited Hope and Bluefield cases really stand for. To quote FPL's own rebuttal witness, K. Michael Davis, the utility has an obligation to serve its customers at the lowest possible cost. Thus, the real core issue presented to the Commission in this case by FPL's billion dollar a year plus request is whether FPL really needs additional revenues in order to provide safe, adequate, reliable service, to pay for its employees to keep the lights on, to purchase the materials, the power lines, the transformers, the meters that it needs to provide service, to attract sufficient capital and make the investments that it needs to continue providing such service at the lowest possible cost.

The evidence of record in this proceeding will demonstrate by a preponderance of the evidence which is the standard for administrative proceedings and determinations, that the answer to this question is unequivocally no. Why?

One, FPL has asked for an overreaching return on equity. They want their rates set based on a pretax return on equity in excess of 20 percent in order to produce an after tax return of 12-1/2 percent. Contrary to Mr. Anderson's assertion, overall return is not the right metric here. Interest costs are a cost. Overall return, if you look at that at 7.85 percent or whatever it is, masks what FPL is really asking for in terms of the profits it wants to earn on the backs of ratepayers, 12-1/2 percent after tax. This request bears no reasonable relationship to current capital markets in which the risk free rate is roughly 4.3 percent. Nor does it bear any reasonable relationship to FPL's risks. The evidence will show that a rate of return on equity after taxes and after all the legitimate reasonable prudent expenses of 9-1/2 percent is fair, just, and reasonable to FPL and will result in fair, just, and reasonable rates to consumers. This rate, 9-1/2 percent, is more than double the risk free rate and well over 500 basis points above the risk free rate.

In light of the fact that FPL recovers well over 60 percent of its total revenues through cost-recovery charges which are effectively dollar-for-dollar pass-throughs with advance approval of the amounts to be recovered and true-ups. The risks that FPL faces are, if anything, barely sufficient to justify even this generous return above the risk free rate.

Regarding capital structure. Remember, FPL itself acknowledges that its duty, its obligation is to provide adequate service to its customers at the lowest possible cost. FPL's request for a 59 percent equity ratio is patently inconsistent with this principle. We are not asking for 34 percent. We are not asking for

44 percent. FPL's Witness Dr. Woolridge testifies that 54 percent is more than adequate to protect FPL's financial integrity and enable it to provide service at a reasonable cost.

FPL's depreciation surplus is huge. It is somewhere between 1.25 and $2.75 billion. Any ordinary person would regard this as an astronomical sum. All we want is for FPL to flow back $1.25 billion worth of that using a process they are already using over a period of four years.

FPL has overstated its depreciation expense by understating plant lives. You divide any given amount of dollars by a smaller number of years, you get depreciation expense that is too high. The Commission needs to fix that consistent with FPL's obligation to provide service to its customers at the lowest possible cost.

We believe that FPL's requested executive compensation is excessive by tens of millions of dollars per year. So excessive, in fact, as to produce unfair, unjust, and unreasonable rates if you approve their request.

FPL, while professing to be concerned about the bleak state of the economy, has chosen to ignore the Commission's explicit ruling in Docket Number 060038.

Three years ago when they sought your approval to recover from customers sufficient funds to build a $650 million storm reserve. You reviewed it. You said the record clearly establishes that the level of FPL's reserve has no impact on FPL's exposure to storms and that the risk associated with a higher reserve level or a lower reserve level is borne completely by FPL's customers. They are back today asking you for the same thing they asked for three years ago. You should reject it as you did then.

If FPL were truly concerned about the bleak state of the economy, it would be tightening its own belt and letting already strapped Floridians whose belts are already pinched to the last hole hang to the $1,300,000,000 a year that FPL is trying to get from them with your approval.

If they were really concerned about the bleak state of the economy, they would ask for a reasonable ROE. They would flow back the depreciation surplus to the customers who paid to create it. They would use fair depreciation rates based on the actual lives of their assets. They wouldn't ask customers to pay tens of millions of dollars a year in excessive executive compensation, and they would rely on the $200 million storm reserve that we have already paid for plus the

Commission's demonstrated record of promptly providing for recovery of reasonable and prudent storm restoration costs. In short, if FPL were truly concerned about the economy, it would reduce its rates to promote the public interest of Florida and Floridians.

We urge you to deny the subsequent year adjustment and the generation based rate adjustment in the public interest fulfilling your regulatory duties. You should make decisions on the basis of good solid contemporaneous evidence based on real conditions at such time that FPL claims it needs more money to provide safe, adequate, reliable service at the lowest possible cost.

Commissioners, it is up to you. In the public interest of the roughly half of Florida's population who get their electricity from FPL with no choice, we implore you to set rates that are fair, just, and reasonable to all Floridians. We implore you to deny the 2010 increase, to deny the 2011 increase, to deny the generation base rate adjustments. Reduce FPL's rates so that it will, in fact, serve its customers at the lowest possible cost.

COMMISSIONER McMURRIAN: Thank you.

Mr. Armstrong.

MR. ARMSTRONG: Thank you.

Good afternoon, Commissioners. I am here representing the City of South Daytona. As you know, FPL requests that rates be established using projections of costs and investments to be made up to two years or more after this hearing is over. The City of South Daytona believes that this Commission lacks statutory authority to grant FPL's request.

Section 366.061 is a section of Florida law that details how this Commission can establish base rates for FPL. The language in that section, without exception, authorizes this Commission only to consider historic, not projected cost of investments. The language expressly refers to money invested, not to be invested. Money paid, not to be paid. Records kept, not to be kept.

Florida Supreme Court decisions of the 1980s discussing projected test years involved a telephone rate proceeding where the projected test year already was an historic test year by the time of the evidentiary hearings. In the other case, the utility's projected costs and investments had become actual data by the time the Commission's order was issued. In this proceeding before you the first projected test year will not even have begun when this hearing is over. For this reason, South Daytona renews its request that this proceeding be dismissed as the rate increase request that is premised solely upon speculative costs and investments to be made in some instances more than two years after this hearing is concluded.

Another problem with FPL's request is its 12.57 percent return. As this Commission is aware, if a 12.5 percent return is authorized, the Commission's policy is to allow the utility to earn up to 13.5 percent return without fear of an overearnings investigation. You must consider this fact seriously in this case since it deals 100 percent with speculation as to costs and investments, some of which would not be incurred for more and that two years into the future.

When this Commission sets rates in proceedings like this one, it does not perform subsequent audits to see if the utility actually incurred the costs or invested the funds it said it would to justify rate increases. After rates are set, this Commission only reviews earnings surveillance reports submitted by the utility each year to ensure that the utility is not exceeding its authorized return on equity. Whatever equity return you authorize, FPL will earn up to one percent more. That is how good big utilities like FPL perform. That is how incentive compensation works.

If this Commission sets rates based on FPL's estimates, there is nothing that would stop FPL from cutting costs in 2010, or 2011, or investing less capital in 2010 or 2011 to achieve its authorized return, even though rates were established in this proceeding to provide the funds to pay for those costs and investments.

Please consider that in 2009 FPL delayed $190 million in capital investments that it had planned to make. Also, consider that if rates were established in 2005 to allow FPL to recover the many millions it expected to invest in the Glades Power Plant, customers would have been paying rates today based upon those investments which never were made since the project is no longer being pursued.

As you know, FPL suggested its 12-1/2 percent return is supported by a proxy group of 19 utilities which FPL suggests share similar risks and uncertainties. An exhibit presented by FPL demonstrates that FPL is a less risky investment than the utility proxy group based on the three critical measurements.

One, bond rating. FPL's bonds are rated A. The utility proxy group's average rating is A minus. And, therefore, FPL is a better investment risk.

Two, Value Line safety risk rating. FPL's safety risk rating is 1.0, indicating the lowest safety risk. The utility proxy group average rating is 2.0. Therefore, FPL is a more safe investment.

Three, Value Line's financial strength rating. FPL's financial strength is A plus, the highest rating possible. The utility proxy group average rating is only an A. Therefore, FPL is financially stronger.

The handout being distributed provides this information which must be given serious consideration when you establish FPL's return.

A significant reason for FPL's financial strength in comparison to the utility proxy group is FPL's ability to recover the majority of its revenue requirements from periodic rate adjustment mechanisms which go into effect outside of the eight months of scrutiny which typifies rate proceedings such as this one. These mechanisms include adjustments for nuclear, environmental conservation recovery, fuel and storm cost recovery, and generating plant base rate recovery.

Each of these rate mechanisms reduce the level of uncertainty or risk that FPL could recover its operating costs and investments. Each of these mechanisms reduce what is commonly referred to as regulatory lag, which is the time between the costs being incurred and then recovered in FPL rates. FPL's charts today confirm that these adjustments account for more than 60 percent of FPL's revenue requirements.

We are also going to hand out a chart which provides a simple way that FPL could have demonstrated to this Commission whether the Commission's regulating FPL's proxy utility group also provide these mechanisms for rate relief. The availability of these numerous rate adjustments must be examined closely in any rate proceeding in any state or jurisdiction when determining proxy group risks and associated returns on equity. As the footnotes on the chart being passed out indicate, this information was requested from FPL months ago. No attempt was made by FPL to inform this Commission whether the 19 utilities in the proxy utility group recovered the majority of their revenue through these periodic rate adjustments in the way that FPL does.

For utilities operating in more than one state, no attempt was made to identify the adjustment mechanisms available in each state. FPL also did not identify laws, rules, or rate orders addressing rate adjustment mechanisms available from the commissions for the 19 proxy utilities so this Commission could review such information. Instead, FPL's return on equity expert simply reviewed utility filings with the Securities and Exchange Commission and/or rating agency reports.

The next chart fills in the limited information on this topic that was actually provided by FPL in responses to staff and Public Counsel interrogatories, which are to be provided in Staff's Composite Exhibit 35. Even from the limited information provided by FPL, a review of this chart makes it clear that Florida is very generous to electric utilities through the rate adjustment mechanisms authorized here as compared to what is available in the other utilities.

The left column being everything FPL gets from this Commission, and then underneath the other columns you will see what the other states provide to the other utilities. It is noteworthy that when FPL believes that laws or commission orders from other states support FPL's positions, those laws and commission orders are quoted and cited by FPL's witnesses. But when critical rate adjustment comparisons to the 19 proxy group utilities were requested, little to no credible information like laws, commission orders, or other substantiating documents have been provided. Such information would have enabled the Commission to determine whether those utilities truly do have similar risks and uncertainities as FPL.

The burden of proving an appropriate return on equity lies with FPL. By failing or refusing to provide this information for the Commission's review, there is no way for this Commission to determine that the utilities in FPL's proxy group share similar risks and uncertainties with FPL. These failures to provide missing critical information should give each one of you Commissioners heartburn.

When considering the enormity of a $1.3 billion rate increase, the Commission must consider not only the record before it, but what the utility has failed to provide and which could have been provided to substantiate and give credibility to a requested return on equity as high as 12.5 percent. On this basis alone this Commission must reject FPL's request for a 12-1/2 percent return and consider the only remaining evidence from the Office of Public Counsel and intervenors.

Let me also say that FPL witnesses suddenly are able to identify laws, rules, and Commission orders addressing these rate mechanisms and percentage of costs and revenue collected through them by all utilities in the proxy group. Such information should be rejected by this Commission as being untimely as my client, your staff, and the other parties will not have had time to test its accuracy, credibility, or appropriate cross examination.

To conclude, I draw this Commission's

attention to FPL's analogy of the high return on equity requested by FPL to an insurance policy. FPL suggests that the owner of an insurance policy, and I'm quoting, the owner of an insurance policy incurs a relatively modest regular cost to protect against the occasional or unforeseen high cost highly negative event. But, this Commission must act with caution on a customer's behalf. This Commission must be careful that the insurance broker is not trying to sell us something we don't need at a significant cost to the customers through higher rates and at an excessive profit to the insurance broker, in this case FPL.

For this reason, expanding on FPL's health insurance analogy, we ask you to consider the decision by the majority of this Commission, not Commissioner Argenziano, in the Tampa Electric rate case. Consider the customer of Tampa Electric, a BBB rated utility, barely an investment grade rating, that constitutes a preexisting chronic illness. This Commission set an insurance premium of 11.25 percent. Now comes a customer of FPL, a healthy, vibrant utility with no preexisting conditions and a solid investment rating of A. It clearly would be unjust and unreasonable to charge the FPL customer a premium higher than the 11-1/4 percent charged to a Tampa Electric customer, but that is what FPL is requesting that this Commission do. The 9.5 percent return advocated by the Public Counsel and South Daytona is the correct return in this proceeding.

You will hear FPL's witnesses repeatedly refer to the unfailing support which this Commission has provided to FPL in setting rates. Indeed, this Commission has been supportive of FPL. South Daytona and the other customers represented in this proceeding now ask this Commission to be supportive of us. For every one percent of additional return you authorize for FPL, you are taking $133 million from customers and adding it to FPL's profit. South Daytona proudly joins the Attorney General, Florida's Chief Financial Officer, Alex Sink, and the intervenors in this room in opposition to this rate increase.

And, by the way, the 17 percent reduction in base rates referred to today by FPL occurred because FPL recovered so much money in rate adjustment mechanisms that were not available to it in the past.

Thank you.

CHAIRMAN CARTER: Okay. Ms. Alexander.

MS. ALEXANDER: If it is okay with the Chair, I'll sit here, even at the risk of being cross-examined.

CHAIRMAN CARTER: You may proceed.

MS. ALEXANDER: Good afternoon.

COMMISSIONER EDGAR: Thank you, by the way, to Ms. Bradley. Thank you for the courtesy extended to her.

MS. ALEXANDER: Yes. I do appreciate that. Thank you.

Good afternoon, Mr. Chairman and Commissioners. My name is Stephanie Alexander, and I represent Florida AFFIRM. Florida AFFIRM is a coalition of quick-serve restaurants that have substantially similar electrical usage characteristics. The members of AFFIRM are the corporations and the corporations' franchisees that own and operate over 500 business locations served by FP&L under the following brand names: Waffle House, Wendy's, Arby's, and Yum Brands (phonetic), doing business as Pizza Hut, Kentucky Fried Chicken, Taco Bell, Long John Silver's, and A&W. These 500-plus Florida restaurants also employ many thousands of Florida citizens. Virtually all are concerned with the potential increase in their electric rates.

It is obvious from the opening statements of FPL, and the Office of Public Counsel, as well as the other intervenors that the Commission has before it some monumental decisions that will affect the people of this state for years to come. The difference between the company's position and the OPC's position on the issue of rate relief alone amounts to many, many, many millions of dollars, and is, to say the least, significant. Plus, at last count there were more than 170-plus issues in this proceeding, yet the issue raised by AFFIRM is still significant.

Specifically, AFFIRM has intervened to ask the Commission to address the rate structure and resulting prices its members must pay for electric power from FP&L. Under FPL's tariff, AFFIRM's members are unfairly disadvantaged as compared to other commercial customers and industrial users, and FPL's Witness Deaton has confirmed this in her rebuttal. Although this issue may not be as big as some others, it is nonetheless important to AFFIRM's members, and lies at the heart of the Commission's mission here to protect consumers from unfair rates.

AFFIRM's expert Witness Russell Klepper will explain in detail why the current rate structure and resulting prices are unfair to AFFIRM's members and, of course, will answer questions about what should be done to remedy these unfair and unjust rates. In a nutshell, however, the reason that the rate structures and resulting prices are unfair is simple. The electrical usage characteristics of the AFFIRM members reflect consumption patterns that materially differ from the majority of commercial customers, but its members are charged as if they were the same. As Mr. Klepper will testify, the net result of these differences is that the usage of AFFIRM members when compared to the majority of commercial customers makes a small contribution to the company's monthly system peaks and also uses a disproportionately greater percentage of total energy consumption during off peak periods. These key differences are not recognized in the rate structures currently and the resulting prices, however. And these unfairnesses and inequities are what we will be asking the Commission to address.

Thank you.

CHAIRMAN CARTER: Thank you.

Mr. Stewart. Good afternoon.

MR. STEWART: Good afternoon, Mr. Chairman, Commissioners.

My name is Stephen Stewart, and I am here representing Mr. Richard Unger, a regular run-of-the-mill but passionate residential customer of Florida Power and Light. It is hard for Mr. Unger to understand how, given the state of the economy, that a monopoly could ask their customers for more money, much less a performance bonus.

It is hard for Mr. Unger to understand 12-1/2 percent return on equity, given the beating that 401k accounts have taken over the last years. It is hard for Mr. Unger to understand a 30 percent increase in base rates over the next two years. Beyond that, Mr. Unger is concerned that the PSC has lost touch with average citizens and hopes that his intervention will result in more transparency with regards to the process that takes place here at the Florida Public Service Commission.

Thank you.

CHAIRMAN CARTER: Thank you.

And the federal agencies have waived opening.

Thank you.

To those of you that are probably new to the process, and the reason you will see me walk away from time to time is not to be rude, I am recuperating from back surgery, and I have got a bet going on with my daughters that I will be able to race them by the end of the year. Not necessarily a marathon, but I may want to go like a 20-yard dash or something like that. Okay. Thank you very kindly. We have had the opening statements of the parties.

Staff, are there any other preliminary matters before we go to the swearing in of the witnesses?

MS. BENNETT: Before we swear in the witnesses, we do have the Comprehensive Exhibit List and the service hearing exhibits to enter into the record. That will be 1 through 34.

CHAIRMAN CARTER: Okay. Let's do that at this point in time. Is there any objection of the parties of Exhibits 1 through 34, which is the service -- it is the docket -- the document itself, the list of the exhibits by number and it also contains the exhibits from the hearings. I would presume there will be no one who will want to kick out the customer exhibits that they presented to us to the hearings. Is that correct, no objections? Okay.

(Exhibit Number 1 through 34 admitted into the record.)

CHAIRMAN CARTER: Let's do this. We are going get ready for our opening statements. Commissioners, let me give you a break, a stretch break, and then we will kick off on the half hour.

(Off the record.)

CHAIRMAN CARTER: We are back on the record. And when we last left, the parties had done their opening statements. Let me just ask as a group those that will be witnesses today, I would like to swear you in as a group. All the witnesses that are in the room today, would you please stand. All of the witnesses.

And to the attorneys, just to remind, as we always do, if you have a witness that has not been sworn in, please bring that to the attention of the Chair at the appropriate time when the witness comes up. Okay.

All witnesses, would you please raise your right hand?

(Witnesses sworn.)

CHAIRMAN CARTER: Thank you. Please be seated.

Okay. Call your first witness.

MS. CLARK: Mr. Chairman, FPL would call Armando J. Olivera.

COMMISSIONER McMURRIAN: Okay.

ARMANDO J. OLIVERA

was called as a witness on behalf of Florida Power and Light Company, and having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CLARK:

Q. Mr. Olivera, I know you have been sworn, so I would ask you to state your name and business address for the record.

A. Armando J. Olivera, 700 Universe Boulevard, Juno Beach, Florida.

Q. By whom are you employed and in what capacity?

A. Florida Power and Light, President and CEO.

Q. Have you prepared and caused to be filed 56 pages of prefiled direct testimony in this proceeding?

A. I have.

Q. And did you prepare and also cause to be filed one errata sheet to your direct testimony and a change to Exhibit AJO-2?

A. I have.

Q. Do you have any other changes or revisions to your prefiled direct testimony?

A. I do not.

Q. With the errata sheet, if I asked you the same questions contained in your prefiled direct testimony, would your answers be the same?

A. Yes, they would.

MS. CLARK: Chairman Carter, I ask that the direct testimony of Armando J. Olivera be inserted into the record as though read.

CHAIRMAN CARTER: The prefiled testimony of the witness will be inserted into the record as though read.

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Armando J. Olivera. My business address is Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408.

Q. By whom are you employed and what is your position?

A. I am employed by Florida Power & Light Company ("FPL" or the "Company") as President and Chief Executive Officer.

Q. Please describe your duties and responsibilities in that position.

A. I have overall responsibility for the operations of FPL.

Q. Please describe your educational background and business experience.

A. I have a Bachelor of Science degree in electrical engineering from Cornell University and a Master of Business Administration from the University of Miami. I am also a graduate of the Professional Management Development program of the Harvard Business School. I was appointed to my current position in 2003. My professional background is described in more detail in Exhibit AJO-1.

Q. Are you sponsoring any exhibits in this case?

A. Yes. I am sponsoring the following exhibits:

- AJO-1 - Biographical Information for Armando J. Olivera
- AJO-2 - FPL Typical Residential 1,000 kWh Bill for January 2009, January 2010 and January 2011

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide an overview of FPL's filing and its position in this case, together with an introduction of the witnesses who have filed direct testimony on FPL's behalf in support of that position.

II. SUMMARY OF TESTIMONY

Q. Please summarize the Company's position in this case.

A. FPL's customers expect their utility to provide affordable, reliable, clean energy solutions - both now and in the years to come. It is therefore our responsibility to plan ahead and make efficient and prudent investments that ensure we continue to meet those expectations. Because of today's bleak economic climate, we want to ensure that we clearly explain why a rate change is the right course of action – we want to demonstrate to the Commission and to our customers how we're doing our part, every day. We want to show how we have performed, and want to continue to perform, in providing reliable and affordable electric service to our customers. And once we've done that, the need for the rate change will be clearer. To be sure, it is more important than ever that we plan ahead carefully and invest wisely. But we also know that we must work to keep costs low.

Here's what we've done – and what we do each day – to keep costs low and prevent the need for rate increases: FPL embraces efficiency at all levels of the business. Our fossil generation fleet continues to become more efficient as we add new, cleaner and more efficient units, as was the case with the addition of Turkey Point Unit 5 in 2007 and will be seen with the planned additions of the West County Energy Center units. It should also be noted that these newer, more efficient units have a relatively small impact on customer bills when the fuel savings are taken into account, a win-win situation for everyone. We focus on efficiency, not just in how we deliver electricity, but in how we operate as a company. To illustrate this commitment: since 1985 FPL has succeeded in lowering its non-fuel operating and maintenance (O&M) expenses per kWh by approximately 22% and, as FPL witness Reed states, the Company's performance is particularly strong in controlling non-fuel O&M expenses.

As you know, we have a history of working to keep costs low. For a typical residential (1,000 kWh) customer, FPL's total bill as of January 2009, is the lowest of all Florida investor owned utilities (RBD-4). As well, FPL has actually reduced base rates twice in the past 10 years – by $350 million in 1999 and again by $250 million in 2002. In addition to these two reductions totaling $600 million per year, FPL also provided customers with refunds of more than $225 million through the terms of its revenue sharing agreements. As a result, over the past decade, our customers have received total savings of over $6 billion. And based on the benchmarking conducted by FPL witness Reed, FPL has outperformed other companies in terms of its strong financial and operational performance. For 2007 alone, had FPL performed only at an average level (instead of being one of the top performers in the benchmarking group), non-fuel O&M costs would have been between $700 million and $1.3 billion higher than FPL's actual costs – a clear and substantial savings for our customers.

We recognize there is no good time for a rate increase, especially given the current state of the economy. However, it appears at this time that 2010 fuel prices to customers will be substantially lower (based on February 9, 2009 price projections), due in part to overall lower fuel costs but also due to FPL's past commitment to investing in a cleaner and more efficient fossil generation fleet. As a result, even with the full required base rate increase, it is projected that FPL's customers will likely see their total bill *decrease*, not increase, effective January 1, 2010.

And each day we also work to deliver FPL customers more value from their electric utility service. We work to make our generation infrastructure stronger, smarter, and cleaner. FPL's commitment to provide clean energy (i.e., low or no greenhouse gas emissions) starts with fuel diversity. Because of its fuel mix, FPL is recognized as a clean-energy company, with one of the lowest emissions profiles among U.S. utilities. FPL currently obtains most of its electricity from clean-burning natural gas. The contribution of natural gas to our overall generation mix has grown and will continue to grow since 2006, the test year from our last base rate case, as follows:

2007 – 52% 2010 – 61%

2008 – 53% 2011 – 63%

2009 – 48%

The addition of this clean and efficient natural gas enhances our system overall, and greatly benefits customers. However, it also highlights the need for diversification of the fuel supply in the future. Nuclear power, which produces no greenhouse gas emissions, is responsible for another significant portion (19%) of power production. As you know, we are in the process of increasing the output at our existing nuclear facilities in Florida and are developing two new nuclear units at our Turkey Point site.

As Florida continues to grow, it is FPL's responsibility to plan new power plants to ensure that electricity needs are met while preserving Florida's environment. FPL is working with legislative and other governmental leaders as well as state regulators in support of Governor Crist's clean energy agenda to find a balanced approach to our future energy needs.

FPL also is working to take a leadership role in Florida with regard to renewable energy through the Company's development of three solar energy projects. These projects represent a total of 110 megawatts (MW) of emissions-free electricity that will make Florida the second-largest supplier of utility-scale solar power in the U.S. FPL also supports greenhouse gas reductions through its industry-leading energy management programs, which help save customers money each month – and have eliminated the need for 12 power plants since the inception of these programs in the early 1980s.

FPL also is investing in an Advanced Metering Infrastructure (AMI), or "Smart Meters," which will give customers more information about how they use electricity each day – giving them the tools they need to better control their energy use.

Over the years, FPL also has become a leader in efficiency: The percentage of time our fossil-fueled power plants are available to generate power, as measured by the Equivalent Availability Factor (EAF), is among the best in our industry. The reliability of our power delivery system, as measured by the distribution System Average Interruption Duration Index (SAIDI) compares very well to other Florida investor owned utilities and ranks among industry leaders nationally. And FPL's nuclear plants have shown recent improvement in generation performance, as measured by the capacity and availability factors, reflecting FPL's significant investment in nuclear plant equipment.

Overall we are investing in making our infrastructure stronger, smarter, cleaner, more efficient and less reliant on any single fuel source. As a result, the service provided by FPL remains strong, and the value provided to customers remains high.

Yet there is more work to do, and this brings us to where we are today: a base rate proceeding. The conditions under which we operate have changed dramatically since 2005, the year of FPL's last base rate proceeding, challenging our ability to continue to provide the type of electric service our customers expect.

FPL's last rate proceeding in 2005 resulted in a settlement agreement among all of the parties that was subsequently approved by the Florida Public Service Commission ("FPSC" or the "Commission") following the submission of all direct and rebuttal testimony, months of discovery, and the review of thousands of pages of information by Commission Staff, the Office of Public Counsel and the other parties. That agreement held FPL's base rates flat, but provided for necessary and limited increases later to accommodate the large planned capital expenditures associated with the development of generation to meet Florida's expanding requirements via the Generation Base Rate Adjustment (GBRA) mechanism.

Throughout my testimony I will describe how conditions have changed in terms of costs, customer growth and sales growth, and the resulting major factors that are driving the need for a base rate increase at this time. FPL's witnesses in this proceeding will show how the Company plans and acts based on a long term perspective in order to address the long term needs of our customers, while balancing our actions to acknowledge and react to short term changes in the environment in which we operate. It will be critical during this proceeding that the Commission and all parties also maintain this balanced long term perspective so that we, the Company, will be able to continue to meet Floridians expectations for affordable, clean and reliable energy solutions for years to come.

III. INTRODUCTION OF WITNESSES

Q. What are the main topics addressed in the testimony filed on FPL's behalf?

A. The testimony submitted by the other witnesses on behalf of FPL in this proceeding is offered to explain and support:

1) The need for an increase in base rates for 2010;

2) Continuation of the GBRA mechanism for new generation;

3) The need for an increase in 2011, i.e., the Subsequent Year Adjustment;

4) A rate of return on equity (ROE) of 12.5%;

5) Adjustments that the Commission requires FPL to make or should allow to be made in establishing FPL's rates; and

6) The proposed rate schedules and service charges that implement the requested rate relief.

Q. Who will be testifying on FPL's behalf in this proceeding?

A. In addition to me, the following Company witnesses will testify as part of FPL's direct case:

- Dr. Rosemary Morley – Sales and load forecast;
- Philip Q Hanser, The Brattle Group – Sales and load forecast;
- Robert E. Barrett, Jr. – FPL's financial forecast;
- Marlene M. Santos – Customer Service cost and quality of service;
- George K. Hardy – Power Generation cost and performance;
- J. A. Stall – Nuclear cost and performance;
- Michael G. Spoor – Distribution cost and quality of service;
- James A. Keener – Transmission and Substation cost and quality of service;
- Kathleen Slattery – Human Resources costs and benefits;
- Christopher A. Bennett – Environmental Management, Six Sigma Quality and Information Technology;
- C. Richard Clarke, Gannett Fleming, Inc. – Depreciation;
- Kim Ousdahl – Calculation of the 2010 and 2011 revenue requirements and requested revenue increases, continuation of the GBRA, accounting issues and Company adjustments;
- Steven P. Harris, ABS Consulting – Storm reserve;
- William E. Avera, Ph. D., Financial Concepts and Applications, Inc. – ROE and capital structure;

- Armando Pimentel – Need for requested revenue increases, ROE, capital structure, storm reserve and accrual;
- Joseph A. Ender – Cost of service;
- Renae B. Deaton – Rate design; and
- John J. Reed, Concentric Energy Advisers – FPL's operational and financial performance relative to industry benchmarks.

Some of these individuals as well as other witnesses also may testify in rebuttal on behalf of FPL.

IV. OVERVIEW AND CONTEXT OF THE BASE RATE INCREASE

Q. Why does FPL require an increase in its base rates at this time, particularly given the current challenging economic conditions?

A. This is an important question. The full answer, of course, is found throughout the entire filing that constitutes FPL's formal request for an increase in its base rates. But perhaps a brief explanation at the outset of my testimony will better frame this important discussion.

Fundamentally, we need to increase base rates to be able to continue in the ensuing years to provide the world class utility service that our customers expect -- service that is affordable, reliable, and clean, and to retain investor confidence in the most uncertain and volatile capital market that this country has experienced since the Great Depression.

We believe this is the direction in which the electric industry must move if we are to secure our energy future. FPL and Florida are leading the way. But the projects and initiatives that are required to meet these objectives take long periods of time to develop and require major financial commitments on the part of our investors. Taking a short-sighted view, although tempting in a down economy, is precisely the wrong approach for our customers, the state of Florida and FPL. I will explain this in more detail later in my testimony.

To meet customer expectations, and to continue to provide a high quality, foundational service in support of Florida's economy and quality of life for Floridians, we must plan ahead and make efficient and prudent investments, even in challenging economic times. Such investments require an enormous amount of capital – capital that in the current market has become much more expensive due to dramatic increases in credit spreads and also more difficult to obtain, and, for some companies, not available at all.

We understand that no price increase will ever be welcomed, whether it is for electricity, healthcare, gasoline, or milk. It is worth observing, however, that there are very few services in our economy that are subject to the type of consistent and comprehensive price scrutiny to which electric prices in the

United States are subject. Many prices rise with little or no warning and require no governmental approval. Electric prices, on the other hand, increase only upon a proper showing and determination through proceedings such as these. And yet we see fairly significant differences in the prices and quality of electric service from state to state and among utilities throughout the country. FPL witnesses in this proceeding, however, confirm something that this Commission already knows – that FPL is one of the premier utilities in the entire country, providing top tier service at a price that is below the national average.

This is a very important frame of reference for this proceeding. FPL's very successful track record over many years in managing costs and making prudent investments, supported by constructive regulation from this Commission, has positioned FPL and its customers extremely well in challenging economic times compared to much of the country, even with the base rate increase that is necessary.

Q. **Please elaborate on what you mean when you say that FPL and its customers are well positioned, even in these economic times.**

A. Much of the electric utility industry has begun to recognize the importance of meeting the objectives I have identified above (i.e., a stronger, cleaner, smarter, and more fuel efficient system) to provide a more secure energy future for their customers. However, utilities across the country are facing many of the same economic and operational challenges that we face in Florida.

Although commodity prices have begun to moderate, this follows a period of sharp increases: financial markets are much tighter and more volatile, and sales levels are lower, meaning there are fewer kilowatt hours (kWhs) over which to spread costs. At the same time, utilities also are working, some more progressively than others, with governors, legislators and regulators to achieve meaningful reductions in greenhouse gas emissions, greater fuel diversity, and a more secure energy future for their customers.

But because of the investments FPL already has made, because of the way in which it has managed and controlled costs historically, and because of supportive, constructive regulation by the Commission, FPL is much better positioned than most to achieve these objectives despite current economic challenges and at rates that will remain among the lowest in the state and below national averages. This is a distinct advantage for FPL's customers.

In other words, because of the sound practices, investments, and regulation of prior years, Florida, the Commission and FPL are able to continue to take the progressive, proactive approach that has produced a world class utility system. This system operates at below average prices, and continues to move forward in securing the energy future for Florida and the 8.8 million Floridians (representing approximately 48% of the state's population) served by FPL, and with total bills that, based on recent fuel price projections (as of February 9, 2009), will actually be *lower* in January 2010 than they were in 2009, with subsequent increases not occurring until 2011 when most observers expect to see some of the current economic hardships begin to lift.

In contrast, compared to FPL, most other utilities already face one or more of the following: (i) a higher cost structure; (ii) a proportionally larger total investment and a longer road to become cleaner (i.e., lower emitting), more reliable, or more fuel diverse; and/or (iii) more constrained and expensive access to the debt markets. Utilities and their customers who are not as well positioned or who did not in past years receive the necessary regulatory support are going to face much larger hurdles in keeping pace with a changing energy environment, making correct and sufficient investments in infrastructure, and accessing sufficient capital at reasonable prices and on a timely basis. As a result, their customers will be at risk of experiencing deteriorating service levels at higher electric prices, while at the same time potentially losing important opportunities for the development of clean and renewable generating sources.

Q. **You indicate that FPL's service levels are high and that its rates are below the national average. Please summarize those comparisons.**

A. FPL has achieved superior performance in the Company's key operational areas, which ultimately serves to deliver direct benefits to our customers. This is supported by various witnesses' testimony and is also addressed later in my testimony, and includes the following areas: Customer Service, an example of which is the recognition received through the ServiceOne award for customer service performance; fossil generation performance, as evidenced by FPL's achievements in Equivalent Availability Factor (EAF) results; transmission and distribution reliability and cost performance; nuclear operational performance; and finally, FPL's environmental performance as evidenced by our actionable commitment to a cleaner, safer environment -- not just in our emissions but in how we treat the communities in which we operate. While one might assume that such performance and accomplishments would result in higher costs to customers, these remarkable achievements have actually been accomplished while maintaining rates that compare very well nationally, and in fact are below the national average, as FPL witness Deaton discusses in detail in her testimony.

Q. You have stated that, even with the required base rate increase, total bills will actually be lower in 2010 than in 2009. If the Commission approves the new base rates requested by FPL, what will be the impact on customers' bills in 2010?

A. FPL witness Deaton explains that in January 2010, the typical residential customer will likely see an overall decrease in the total bill of $4.92 or approximately 4.5%, dropping from the current $109.55 to $104.63. This is due in part to the lower fuel prices projected for next year (based on February 9, 2009 projections), but also reflects the benefits of investments made by the company in cleaner, more efficient generation, both for the newer units such as Turkey Point Unit 5 and the West County units, and also through investments made to enhance the efficiency of the existing fossil fleet. This change in the bill is reflected in MFR A-2, and has been illustrated in my Exhibit AJO-2 attached to my testimony.

Q. If the Commission approves the new 2010 base rates requested by FPL, how will FPL's typical residential bill compare to that of other utilities?

A. Based on current rates for other companies, it appears at this time that FPL will compare favorably even with the full projected increase. The latest survey from the Edison Electric Institute (EEI) reflects a national average price for a typical residential bill of $123.59, and an average for the South Atlantic Region of $105.63. FPL's projected bill of $104.63 for 2010 is well below the national average and also below the South Atlantic Regional average. In Florida, FPL's residential bill is currently the lowest among the four major IOUs; thus, an even lower bill projected in January 2010 for FPL customers would likely remain the lowest among these companies.

As FPL witness Deaton explains, FPL's typical residential bill is also currently among the lowest of the 54 electric companies surveyed by the Florida Municipal Electric Association (FMEA), and is well below the average for these companies of $133.76. Again, it would appear that FPL's lower bill in January 2010, even with the base rate increase, will compare very favorably throughout Florida. Of course, it is impossible to predict the 2010 bills for other companies with absolute precision, but these comparisons provide an excellent frame of reference based on the information we have available today.

Q. What will be the impact on FPL's bills in January 2011 of the base rate adjustments that FPL also is requesting as part of this case and how do you expect that FPL's January 2011 bills will compare within Florida and across the nation?

A. The structure of FPL's request in this case is such that, based on recent fuel price projections as of February 9, 2009, bills are projected to be *lower* in January 2010 than they were in 2009, with subsequent increases not occurring until 2011 when most observers expect to see some of the current economic hardships begin to lift. This is another example of what I was describing earlier – FPL and its customers being well-positioned given the challenges of today to continue to pursue the critical objectives that will secure our energy future. The timing and amount of these necessary adjustments will provide an adequate return to investors, allowing FPL to continue to work toward meeting the objectives I described earlier. The January 2011 typical residential bill is projected to still only increase by 7% over the two-year period from January 2009.

It becomes increasingly difficult to predict bill comparisons further out in time; however, taking all things into consideration, including FPL's current position and recent fuel price projections, the challenges that the entire industry is facing, and FPL's strong record of past performance relative to the industry, based on current information, we expect that our bills will continue to compare very favorably within Florida and nationally.

Q. When did FPL last receive a general base rate increase?

A. As FPL witness Deaton explains, the last time FPL requested and received a general base rate increase was in 1985, more than 23 years ago. Since then, base rates were lowered three times by a total of $638 million in annual revenue requirements (in 1990, 1999 and 2002). FPL's January 2009 typical residential base bill is $7.84 or 16.6% below 1985 levels on a nominal basis, and more than 58% below 1985 levels when inflation is taken into account over that same period (Exhibit RBD-3). Even with the projected 2009 GBRA base rate adjustments reflecting the costs associated with West County Units 1 and 2, FPL's typical residential base bill at the end of 2009 will only be $42.00, still well below the 1985 base bill of $47.15.

Q. Why should the Commission consider the prior base rate reductions in this case?

A. These base rate reductions, particularly the more recent reductions, are important in this respect: they underscore the need for symmetry in the way in which base rates are set. What I mean by this is when a combination of sales growth and productivity improvements more than offset the rate of cost increases on a utility system, base rates may be lowered to produce the required rate of return. This is what occurred in 1999 and 2002, producing base rate reductions totaling $600 million. Conversely, when higher costs and lower sales mean that existing rates are no longer sufficient to produce the necessary rate of return to investors, such as is the case today, those rates must be increased. Such symmetry in the application of ratemaking principles is foundational to electric utility regulation in the United States. And, it is required by the investment community upon which this capital intensive industry relies for the massive financial commitment that is necessary for a utility to meet all of its obligations of service responsibly and reliably.

V. MAJOR DRIVERS NECESSITATING AN INCREASE IN BASE RATES

Q. Given FPL's excellent track record of meeting growth without the need for a general base rate increase, why does the Company now need an increase in base rates?

A. We always look to how we can cut costs first, before we seek a rate adjustment. Indeed, for many years, FPL has worked hard at -- and succeeded in -- controlling costs. We have continued that focus on controlling costs since our last base rate proceeding in 2005. Even today, the amount of the required base rate increase has been offset to an extent by productivity improvements, as described in FPL witness Barrett's testimony and also shown in his Exhibit REB-17. In fact, this is an area in which we take a leadership role throughout the industry. FPL witness Reed shows that our premier level of efficiency and productivity are reflected in the fact that operating and maintenance (O&M) cost per megawatt-hour (MWh) and per customer have both been well below the industry average for many years, and have increased at rates that are generally below the rates of increase for the industry. That has been true and will remain true even with the required increase in our base rate.

However, continued focus on productivity improvements alone will not be sufficient to meet the significant increase in costs to reliably deliver electricity. Today we are in a much different situation, due principally to two important factors. Since 2006, (1) costs, including cost of capital, have increased significantly and (2) sales growth has dramatically declined, while the number of new service accounts added each year (requiring additional FPL infrastructure and support) has not declined nearly as much. Below, I elaborate on each of these factors.

Q. Please describe the cost drivers that necessitate an increase in base rates in 2010.

A. Between the end of 2006 and 2010, FPL will have incurred more than $5.6 billion in capital expenditures to meet long term growth and make the related necessary investments in its infrastructure. Speaking generally, these cost increases can be categorized as described below. Each category represents a significant driver for the overall increase in costs that FPL faces, resulting in the need for a base rate increase. These are addressed in more detail by FPL witness Barrett as well as other witnesses.

- Depreciation - comprised of three discrete items: A discontinuation, for 2010 and beyond, of the annual depreciation credit that the Company has taken in 2006 through 2009 as authorized in the Stipulation and

Settlement Agreement; the revenue requirement in 2010 associated with the cumulative effect of the depreciation credits taken in 2006 through 2009; and the increased depreciation rates reflected as a result of the new study.

- Inflation - The increased costs of goods and services in 2010 compared to the same good or service in 2006. Changes to the Consumer Price Index since 2006 including the forecast through 2010 indicate that inflation will have added about 11% to the cost of goods and services in 2010 relative to 2006, and some of the Company's costs, such as medical and dental expenses, have escalated much faster than CPI;
- Regulatory Commitments - Costs resulting from obligations that FPL must meet as a result of state and federal mandates or regulatory commitments made previously. Two examples of these commitments are the storm hardening expenditures and other storm-related commitments FPL has made to the FPSC, and expenditures required by the Nuclear Regulatory Commission (NRC) to address alloy 600 issues at FPL's nuclear plants, including the replacement of the reactor vessel head at St. Lucie Unit 2. In general, FPL's Nuclear Division has been particularly impacted by regulatory commitments, and failure to meet these commitments could have substantial economic, safety, reliability and regulatory consequences for the Company (loss of the availability of even one nuclear unit for a sustained period could result in hundreds of millions of dollars in replacement fuel costs to FPL's customers).

As FPL witness Stall discusses, FPL's 2005 rate case identified a number of needed nuclear plant modifications. FPL has been able to execute the most significant of these planned projects, and it has done so on time and under budget. For example, the following nuclear projects were on time and $27 million under budget: all four reactor vessel head replacements, St. Lucie Unit 2 steam generator replacement, and St. Lucie Unit 1 pressurizer replacement. FPL's timely decision to proceed with these replacements resulted in savings on component costs of $100 million as a result of later price increases. However, emerging regulatory and operational issues are constantly faced by the Company and continue to require an ongoing re-evaluation of projects and the addition of new initiatives;

- System Growth - Costs associated with new service accounts, such as new poles and wires for distribution and transmission, and customer growth, such as additional meter reading;
- Long-term infrastructure investments - Expenditures that are designed to provide incremental customer benefits over the long term, such as the Automated Metering Infrastructure and FPL's nuclear life extension initiatives. These expenditures were made to make FPL's infrastructure stronger, smarter, cleaner, more efficient and/or less reliant on any single source of fuel;

- Storm Reserve Accrual - The proper annual accrual to the Company's Storm Damage and Property Insurance Reserve, and why this is in the best long-term interest of our customers;
- Economic Conditions - Costs that are measurable and directly related to the economic downturn that we are experiencing currently in the Florida economy and capital markets and that are projected to continue into 2010; and
- Productivity Improvements - Savings attributable to performing an activity at a lower unit cost in 2010, adjusted for inflation, than it cost to perform the same activity in 2006.

Q. What major cost drivers necessitate the Subsequent Year Adjustment increase in 2011?

A. The increase in 2011 is the result of increases in O&M and additional capital expenditures excluding West County Unit 3, for which FPL is requesting GBRA treatment. FPL witness Barrett addresses the 2011 increases in revenue requirements associated with each of the same drivers that were used to explain the 2010 increase. As he addresses, the primary drivers of this 2011 increase are growth, infrastructure investment, regulatory commitments and inflation.

VI. IMPACT OF CUSTOMER AND SALES GROWTH

Q. You indicated a second primary factor in the Company's need for a base rate increase relates to the impact of the different rates of customer growth and sales growth. How have changes in customer and sales growth since 2006, the test year in FPL's last base rate case, affected the company's need for a base rate increase in 2010?

A. The effect is significant. As indicated earlier in my testimony, when sales growth and productivity improvements more than offset the rate of cost increases on a utility system, customers can benefit from base rate reductions. In fact, FPL customers received a total of $600 million in base rate reductions in 1999 and 2002. And base rates prior to that had not been increased since 1985. So FPL has been able to effectively manage cost increases over more than twenty three years through a combination of productivity improvements and growth in sales.

However, growth in sales during 2010 and 2011 will not be adequate to offset increased costs, even taking into account continued productivity improvements that are a part of FPL's ongoing program to achieve and maintain operational excellence. As FPL witness Morley explains, billed retail sales is expected to decline at an average annual rate of 0.6% between 2006 and 2010. This overall lower sales has resulted in a dilemma in which there is no incremental sales to cover the cost of new infrastructure, or over which rising operating costs or even existing fixed costs can be spread.

The 2005 settlement agreement has served our customers and the Company well. It provided an appropriate and efficient ratemaking framework, balancing customer needs for reliable and affordable electric service with the Company's need to attract substantial amounts of investment from the equity and debt markets at a reasonable cost. This was during a period in which the Company required large capital expenditures to continue to meet Florida's electric power needs. But conditions have changed dramatically since 2005.

One of the fundamental expectations that allowed FPL to enter into the ratemaking and regulatory framework instituted under the 2005 settlement agreement is that base costs, other than those covered by the Generation Base Rate Adjustment, would grow generally at a rate consistent with the growth in the Company's energy sales. This would enable the Company to cover the rising costs of operating and maintaining the existing infrastructure and building out new infrastructure. That expectation no longer holds true.

FPL witness Morley explains how FPL's customer and sales growth have stalled in recent years. A recovery of total energy sales is not expected to take place until 2011. Even if sales growth does return to historic levels, the amount of growth that was lost in the interim effectively is lost for good. This is essentially what has happened and now requires an adjustment to FPL's base rates in order to restore the relationship between sales growth and cost growth.

Q. **Can you illustrate this point with an example?**

A. Yes. Assume that sales in year 0 are 10 units, with a total system base cost of \$10 and an existing revenue base of \$10, and that growth in sales averages 1 unit per year at \$1 per unit. Assume that costs, which include the cost of capital, also are growing at about \$1 per year. At those rates of growth, revenues in each succeeding year will exactly cover costs. For example, in year 5, revenues of \$15 will exactly cover costs of \$15.

Now assume, on the other hand, that there is no growth in sales at all during years 3, 4 and 5 but that costs continue to increase by \$1 per year in each of those years. Thus, in year 5 sales will be 12 units producing revenues of only \$12, while costs will still have risen to \$15. The important point is that even if sales growth returns in year 6 at the prior rate of 1 unit per year, revenues in year 6 will only be \$13 while costs will still exceed revenues by the same \$3, revenues having only increased by \$1 and costs also having increased by \$1.

In effect, there must be an adjustment to correct for this deficiency in setting new rates prospectively. In my example, therefore, an increase in rates sufficient to generate an additional \$3 over the revenues that otherwise would occur in year 5 is required in order to restore the appropriate relationship between costs and revenues such that the utility recovers its costs and can continue to attract capital on reasonable terms and in amounts sufficient to make the necessary investments in new plant and other infrastructure.

It is important to note that the required adjustment is not to make up for sales or revenues that did not occur in years 3 through 5; those revenues are simply foregone. Rather, it is simply an exercise in resetting rates at the proper level to recover the prudent and reasonable costs of the utility on a prospective basis which, of course, is the basic premise of utility regulation and ratemaking.

Q. Can you relate this example to FPL's situation and its need for an increase in base rates?

A. Yes. FPL has reduced its spending in recognition of the 2008 changes in economic conditions, including the slowdown in electric sales; however, costs have continued to increase and a certain level of spending will continue to be necessary, even without any compensating growth in revenues. In addition, we will need to continue a certain level of spending as a result of the ongoing cost drivers addressed earlier in my testimony. As a result, this disconnect in the historically relatively stable relationship between cost growth and sales growth has resulted in the need for an adjustment. Without this adjustment to its base rates, FPL will not cover its costs, including its cost of capital, and will have difficulty attracting capital on reasonable terms and in sufficient amounts. Service and reliability necessarily will suffer, and other long term customer benefits will not be realized.

Q. **How has the Company's service environment changed since its last base rate case in 2005?**

A. While total customer growth and energy sales have slowed overall, from 2006 through 2010 and into 2011 FPL has been and will continue to be required to invest in additional infrastructure for poles, wires, transformers and other facilities as a result of the continued addition of new homes and business accounts, or "new service accounts" (NSAs). Even with the slower pace of additions after mid-2007, FPL witness Morley's testimony reflects that FPL added 58,000 in 2008 and will still add another 90,000 NSAs in 2009 and 2010 combined. Thus, while these numbers reflect significantly fewer NSA additions than in the recent past (roughly half the historical rate), they nonetheless will still require additional capital and O&M spending by FPL. Furthermore, any incremental revenue associated with these new services is being offset in the short term by the high vacancy rate for existing homes.

Q. **How has the Company's service environment changed since 1985 when it last received a general base rate increase?**

A. While customer growth has decreased in the past few years, as FPL witness Morley testifies, the state of Florida has seen significant growth since its last general base rate increase in 1985. Likewise the Company has experienced tremendous customer and load growth since 1985. During the last 23 years (i.e., since 1985), the Company has added 1.9 million new customers, an increase of more than 72% and summer peak MW demand has grown by an astounding 10,423 MW or a 98% increase.

This major change in the scope of the Company's obligation to serve -- moving from a point at which FPL was serving 2.6 million customers in 1985 to meeting the needs of 4.5 million customers in 2008 -- has required an enormous commitment of resources and capital. To put this in perspective, consider that, based on data from EEI, there are only 11 electric operating companies in the United States besides FPL that have 1.9 million or more customers. Essentially, therefore, since 1985 FPL has added to its system the equivalent of one of the nation's largest electric utilities. In order to support this tremendous increase in its customer base, since 1985 the Company has invested over $25.9 billion in capital expenditures including $5.9 billion in the construction of new generating capacity and $11.7 billion in the expansion of FPL's transmission and distribution system. This is discussed by FPL witness Barrett in his testimony.

Q. **Why is this long term perspective important?**

A. A long term perspective is what keeps our lights on today. It is the backbone of a reliable system and reliable service. It also is what helps us foresee tomorrow's challenges, and find solutions to them well before our customers have to face them. The construction of new power plants, transmission and distribution lines as well as the supporting Company infrastructure, such as staffing and systems, must be planned many years in advance. FPL makes investments today to ensure our ability to serve our customers in the future. Today's customers benefit from similar decisions made by the Company in past years.

Likewise, FPL makes long term commitments and investments today that will secure long term benefits for all our customers -- existing and new. Examples include the system infrastructure hardening and storm preparedness activities described above. The Company also has invested in the West County Energy Center units, which will result in cleaner, more efficient energy for our customers.

VII. SUMMARY OF REQUIRED INCREASE

Q. Please describe the specific rate relief the Company is requesting in 2010.

A. As FPL witness Ousdahl describes, and as is presented in the minimum filing requirements (MFRs), the Company is requesting an increase in base rates effective January 1, 2010, to address the need for additional annual base revenues of $1.044 billion. This amount is net of adjustments made to the recovery of certain costs in the recovery clauses. Thus the total requested increase, taking into account the effect of these proposed company adjustments, is $1.121 billion. As FPL witness Deaton explains, the typical residential customer is projected to see a decrease in the total electric bill of $4.92, based on a recent (February 9, 2009) estimate of 2010 fuel costs, which reflects a lower price in January 2010 than for January 2009.

Q. Describe the specific rate relief the Company is requesting in 2011.

A. As FPL witness Ousdahl explains, FPL is requesting an increase in base rates of $247.4 million effective January 1, 2011, as a Subsequent Year Adjustment, and is also requesting the continuation of the Generation Base Rate Adjustment mechanism, which FPL would use to recover the revenue requirements associated with West County Unit 3 when it goes into service in 2011.

Q. Please describe FPL's proposed continuation of the Generation Base Rate Adjustment (GBRA) mechanism that was established in the 2005 Stipulation and Agreement.

A. The GBRA mechanism, established pursuant to the 2005 Stipulation and Agreement, is an innovative and creative ratemaking approach allowing for recovery of costs associated with needed new generation. The GBRA mechanism reduces the administrative costs and burdens associated with frequent base rate proceedings while still providing a mechanism for Commission oversight and approval. As FPL witness Deaton Exhibit RBD-8 reflects, in the case of Turkey Point Unit 5 which was brought into service in May, 2007, and also for West County Units 1 and 2 (expected to go into service in 2009), the base cost of the new units is, to a significant extent, offset by corresponding fuel savings.

Without the GBRA mechanism, the Company would have to initiate complex and expensive ratemaking proceedings in order to recognize the cost of bringing these newer, more efficient units into our fleet, even though the units had previously been approved by the Commission in need determination proceedings. The GBRA approach has allowed prompt recovery of these costs with such base increases being largely transparent to customers due to corresponding fuel cost decreases. Customers already enjoy the cost-savings benefit of these new units in a timely manner through the annual fuel recovery clause mechanism. The continuation of the GBRA mechanism simply puts the timing of the recovery of the base rate costs of new units on an equal footing with the recognition of fuel cost savings. This approach has worked well for both the Company and its customers, allowing base rate adjustments for significant investments in generation in an efficient and timely manner. Given the success of this innovative approach to ratemaking, we are proposing that the GBRA mechanism be continued ongoing in the future for West County Unit 3 and subsequent generation additions.

Q. **Why is FPL requesting a Subsequent Year Adjustment for 2011?**

A. FPL is requesting an increase in base rates effective January 1, 2011, to address the need for additional annual base revenues of $247.4 million in the most cost-effective way possible. As FPL witness Ousdahl's testimony reflects, this adjustment will address the deterioration in earnings that will take place during 2010 by resetting base rates effective January 1, 2011 to a level projected to produce an ROE of 12.5%. The Subsequent Year Adjustment allows the Company, the Commission and all parties to address in a single proceeding both the 2010 and 2011 needs, avoiding the time and expense of a separate rate proceeding for 2011. By approving the Subsequent Year Adjustment, the Commission will enable the Company to maintain earnings stability and take advantage of this proceeding to minimize future administrative costs.

VIII. NECESSITY AND BENEFIT OF FUTURE INVESTMENT

Q. Please describe some of the major investments that FPL is making and why these investments are needed given the current state of the economy and the reduced growth in customers and sales.

A. While FPL significantly reduced capital expenditures in the face of the 2008 financial crisis, there are a number of areas where FPL is either obligated or where it makes good business sense to invest for the future and the benefit of our customers. FPL is striving for a system that: 1) is more robust (i.e., one that has greater resiliency and flexibility in the face of hurricanes or fuel supply disruptions); 2) is more fuel diverse and fuel efficient; 3) provides customers with more information and options regarding their energy usage and consumption patterns; and 4) is cleaner and has a "smaller" environmental footprint.

We have implemented and continue to implement significant changes since the 2004 and 2005 storm seasons to make our system more robust. These changes are necessary to address the resiliency of FPL's system against future severe weather events. Specifically, FPL is strengthening its electric infrastructure through higher standards for construction and increasing the level of certain existing reliability initiatives, such as, the six-year average vegetation management cycle for laterals and eight-year pole inspection cycle. FPL's investment in these initiatives, coupled with FPL's more established reliability initiatives, will continue to provide our customers with superior reliability, help avoid outages and reduce overall restoration costs.

Another excellent example of this is the investment FPL has been making and will continue to make in its fossil generation fleet. As discussed by FPL witness Hardy, from 1990 to 2011 FPL's fossil generation system will have both doubled in magnitude and evolved to a fleet of primarily clean and highly efficient combustion turbine-based capacity. This additional capacity, which is cleaner and more efficient (lower heat rate), helps to meet the demand created by long term customer growth, and has the benefits of reducing fuel costs to customers as well as improving FPL's emissions profile. However, both the initial capital investment and the cost to sustain the growing CT-based combined cycle fleet are drivers of fossil capital expenditures.

An example of the importance of investing for the future is FPL's nuclear power plants - a source of non-emitting, reliable, safe, and cost effective energy for FPL's customers. These plants are a key component of FPL's energy mix that benefits FPL's customers in terms of fuel savings, enhanced system fuel diversity, and reductions of greenhouse gas emissions. As FPL witness Stall discusses, FPL must commit both capital and O&M spending in order to implement required equipment upgrades, and recruit and retain a qualified workforce. As a result, we will be able to continue the reliable, safe, and cost effective operation of FPL's nuclear power plants, meet the significant operational and regulatory challenges and evolving NRC requirements facing these plants, and position our plants for operation into their renewed license terms, thereby ensuring that the continued cost-savings and environmental benefits of these plants are enjoyed by our customers well into the future.

Finally, FPL also believes it is critical that the Company continue to invest today in technology to create a smarter and more efficient delivery system through our Advance Metering Infrastructure (AMI) project. As FPL witness Santos discusses, AMI will provide both service improvements and operational efficiencies for our customers. Today's metering has advanced from just an automated meter reading technology to a complete infrastructure using secured reliable communication lines which will lead to new sources of value for our customers. One of the major benefits of AMI is the ability to provide customers with consumption data to help them manage their consumption and their costs. Thus AMI implementation is a critical step in moving towards greater energy independence and increasing energy efficiency.

Q. **What other investments are being made today for the long term benefit of Florida and its residents?**

A. In accordance with the provisions of House Bill 7135, which provided for the development of clean, zero greenhouse gas-emitting renewable generation in Florida, FPL is constructing three separate solar energy projects totaling 110 megawatts (MW) with different characteristics, at diverse locations. These projects will not only generate clean, renewable energy, but will also provide significant information and experience regarding key aspects of siting, constructing and operating different solar technologies at various locations in Florida.

Each one of these facilities is a significant and innovative renewable generating plant in its own right, but collectively these "Next Generation Solar Energy Centers" will be a landmark achievement. These facilities are expected to produce a total of 213,000 megawatt hours (MWh) of electricity per year, and at peak production, provide enough power and energy to serve the requirements of more than 15,000 homes and 35,000 people. While the costs of these projects are not a part of this rate proceeding, this is nonetheless an excellent example of the importance and necessity of making investments today for the future benefit of our customers and the State of Florida.

IX. ACTIONS TAKEN TO REDUCE COSTS AND AVOID THE NEED FOR AN INCREASE

Q. What actions has FPL taken in order to avoid the need for a base rate increase?

A. At FPL we are mindful of the impact that a base rate increase can have on customers, especially in this difficult economy, and we have been very successful in avoiding such increases. This has been the case since our last base rate proceeding in 2005, which was settled with rates frozen at the then-current levels (albeit with a provision to recognize the cost of new generation as it is placed into service and with the concurrent recognition in rates of the fuel savings from such generation).

FPL's corporate culture is one of continually striving to improve in all areas of the company, and it is this culture that has enabled the Company to operate under the 2005 rate settlement agreement even in the face of the economic crisis, reduced growth and lower revenues. As FPL witness Reed discusses, FPL is one of the top performers among comparable companies in terms of productive efficiency. FPL's performance demonstrates particular strength in controlling non-fuel O&M expenses each year. In 2007 alone, FPL was the second highest ranked utility in this area among the 28 companies benchmarked.

It is also important to view the company's results over a longer period of time, as true superior performance is that which is sustained for many years, not just for a year or two at a time. This long term sustained performance results in productivity and efficiencies that in turn have helped FPL to avoid base rate cases. Over more than twenty three years since 1985 (when FPL last received a general base rate increase) the Company has actually lowered its retail base rates overall, despite having made massive capital investments to meet the needs of a customer base that is now more than 1.7 times its size in 1985.

In addition, the performance of FPL's generating units has been a major contributor to FPL's ability to control its base rates since 1985. As FPL witness Hardy discusses, the Company has substantially improved the performance and availability of its existing generating units, thus deferring the need for new capacity. Some of these improvements have provided, in effect, additional generation at a relatively low cost compared to the costs of constructing new units. Indeed, FPL's operating performance consistently has exceeded industry averages, and frequently is within the top quartile of the industry. FPL's fossil generation availability and reliability performance frequently has been Best-In-Class among the largest fossil generating companies.

FPL continues to pursue efficiency improvements and cost reductions in all aspects of its operations. However, these and other measures, though part of FPL's continual focus to achieve top quality performance at below industry average costs, are not enough to avoid the need for an increase in base rates. We will continue to work hard and do our part – but we must ask more from our customers in order to sustain and improve upon our electricity reliability.

Q. **What actions have been taken by the Company in response to the financial crisis experienced starting in 2008?**

A. As FPL witness Barrett explains in his testimony, FPL's response to the economic downturn has been on two fronts. First, FPL actively sought opportunities to reduce costs. As growth expectations were revised downward, FPL was able to make significant capital expenditure reductions without compromising safety, customer reliability and other cost-effective operations for current customers. For example, as FPL witness Barrett discusses, the Company was able to reduce planned capital expenditures in 2008 by about $500 million and reduced its initial spending plans for 2009 by about $400 million. This reduction in capital spending has the direct result of lowering customer revenue requirements in 2010 by approximately $130 million.

Individual witnesses will address how various business units supported this cost-cutting effort. For example, FPL witness Keener addresses steps taken by the Transmission business unit. Specifically, expansion project need dates were reevaluated based on updated load forecasts allowing for delays for some of the work. FPL witness Hardy explains that the Power Generation business unit was able to place older, less efficient units into Inactive Reserve status. This plan allows for the reduction of operating and maintenance costs but keeps the units available to return to service if needed. In addition, spending has been curtailed for the four units located at the Cape Canaveral and Riviera sites as they are scheduled to go off-line for the modernizations beginning in 2010 and 2011. The bottom line: we revisited and were able to reduce our capital and spending plans in light of this economic crisis, but without sacrificing performance, reliability or safety.

X. IMPORTANCE OF A STRONG FINANCIAL POSITION

Q. Please summarize why FPL's request in this proceeding is so important from the standpoint of the investment community.

A. FPL witness Pimentel addresses this in detail, but I would like to make some general observations on this critical subject. FPL has enjoyed strong and cost-effective access to capital markets for years. This is a result of (1) maintaining a strong balance sheet and (2) constructive regulation that has recognized the need for an appropriate rate of return to FPL's equity investors. In a market as uncertain as we face today, with volatility and credit spreads not experienced since the Great Depression, and given our ongoing need for tremendous amounts of investor-supplied capital now and in the coming years, the Commission's decisions in this proceeding regarding FPL's return on equity and capital structure will be absolutely critical.

Q. Why is it important to maintain a strong financial position from the standpoint of FPL's customers?

A. FPL is making and will continue to make important investments in our infrastructure in order to make it stronger, smarter, cleaner, more efficient and less reliant on any single fuel source. It is our responsibility to plan ahead and make these investments efficiently and prudently. To deliver on these promises, it is critical that we maintain a strong financial position and thereby ensure that the Company has the financial strength and flexibility to not only fund long term capital requirements, but to ensure the ability to meet short term funding needs as well.

Q. Please describe the benefits to customers of FPL maintaining a strong financial position.

A. FPL's strong financial position provides real benefits to customers. These are described by FPL witness Pimentel in greater detail, but I think it is important that I summarize a few of those benefits as they relate to our overall request in this proceeding, particularly our requests on return on equity and capital structure. In general, because of its financial position, the Company has had the financial strength and flexibility necessary to fund the Company's long-term capital requirements, as well as to meet short-term liquidity needs, at an economical cost to customers.

As a result of its position, FPL has been able to obtain some of the lowest cost debt in the industry, something that has benefited customers and will benefit customers for years to come in the form of lower cost financing for the long-lived assets that are used every day to provide reliable electric service to the residences and businesses of the communities that we serve. Such access to long-term debt at competitive prices will continue to be critical for FPL's customers as we continue to make the large investments required to provide our customers with a more robust, more efficient, smarter and cleaner electric delivery system.

In addition, because of its strong balance sheet and credit position, FPL has been able to weather significant events in the financial markets without compromising our ability to continue to provide reliable, cost-effective service to our customers. FPL was able to maintain access to capital markets and to do so on terms much more favorable than many other utilities, to the benefit of our customers. The markets certainly have not fully recovered from the recent credit collapse. Moreover, this experience has underscored the importance of remaining prepared for the possibility of additional financial downturns.

FPL's strong financial position also provides it with short-term financing flexibility that is critical to the Company and its customers. For example, FPL relies upon extensive credit facilities to back-up its commercial paper program and trading obligations related to the fuel hedging program which is critical to reducing the volatility in customer bills. These same credit facilities provide us with the necessary access to funds in times of crisis such as during restoration efforts following a hurricane.

Historically, companies with ratings as strong as FPL's have been able to access the commercial paper market even during times of decreased liquidity, and avoid the substantial charges faced by companies with lower ratings if the funds are even available. This strength of credit rating can be most important during times of crisis when commercial paper is in short supply or even unavailable. For instance, any combination of another economic crisis, a rapid run-up in fuel costs as was experienced in early 2008, or a series of damaging hurricanes as happened in 2004 and 2005, and there could be a restricted availability of commercial paper, with only the strongest rated companies having access to the market. Even state governments could be financially constrained and unable to support the reconstruction of infrastructure or to assist state residents.

Q. **What are the key considerations that must be addressed by the Commission for the Company to maintain a strong financial position?**

A. Of course, stated generally, it is important that the Commission properly acknowledge the costs that the Company presents in testimony and the MFRs as prudent, reasonable and necessary. Specifically, however, two of the most basic considerations are a fair and reasonable return on equity (ROE) and support for a strong balance sheet, which includes maintaining the company's current equity ratio.

Q. **Please summarize why the Company believes an ROE of 12.5% is appropriate for setting rates.**

A. The testimony of FPL witness Avera establishes that the cost of equity for FPL is in the range of 12.0% to 13.0%. FPL witness Pimentel recommends that rates be set based on an ROE of 12.5%, within that range. This ROE considers the potential exposures faced by FPL as well as the economic requirements necessary to maintain access to capital even under adverse circumstances. In addition, a return of 12.5% would reflect appropriate recognition of FPL's overall high performance and the benefits and value such service provides to customers.

As I have described, and as reflected more fully in the testimony of various other witnesses, FPL has a track record that provides tangible benefits to customers. It is something they can see, experience, and appreciate. In short: we deliver solid results. FPL's performance levels generally have been well above industry averages and in many cases have been among the highest in the industry, while at the same time holding base rates at or below 1985 levels.

Perhaps one of the most remarkable aspects of FPL's performance is the length of time over which it has been maintained at high levels. Top performance in a category or two for a year or two can be achieved by most utilities simply by focusing all efforts and resources in a particular area over a given period. But to achieve solid results in multiple categories and over long periods of time is what has set FPL apart. I describe some of these accomplishments later in my testimony. They are described in greater detail by several other FPL witnesses. Constructive and supportive regulation has played an important role in these accomplishments. Maintaining this regulatory posture at this time of market uncertainty is more important than ever in this regard. It sends an important signal to all public utilities in the state of Florida that superior performance is a goal toward which all utilities should aspire.

Q. Why is it appropriate to acknowledge a company's performance in establishing an ROE, especially given the utility's obligation or duty to serve?

A. I can explain this best through an example. Two utilities could both be prudently operating companies that are identical in every respect, except performance. The one with better performance, however, would be providing greater overall value to customers at a lower price. Yet, these identical utilities, both operating prudently, in theory would have the same cost of capital. In such an instance, the average performing utility may have no incentive to improve service beyond that which may be necessary to avoid being penalized by the Commission. Utilities must operate prudently, providing reasonable levels of service, and cannot be deficient in carrying out the obligation to serve, but there may not be a direct incentive to achieve this higher level of service and cost-effectiveness. By providing strong performing companies with a solid ROE, the Commission sends an appropriate message that strong performance is valued.

In general, Florida's investor owned utilities have performed well over the years, due in large part to constructive and supportive regulation. I urge the Commission to continue to provide this important foundation for utility service in Florida, especially given the market uncertainties that prevail today and recognizing the capital-intensive needs of FPL as we move forward in building an infrastructure that is stronger, smarter, cleaner, more efficient and less reliant on any single fuel source. These are critical objectives if we are to secure Florida's energy future. Approving the requested ROE of 12.5% for the purpose of setting rates is a means by which the Commission can properly convey the importance and value of strong performance, more directly establish proper incentives for utilities to perform beyond the level of simply "prudent and reasonable," and thereby ultimately provide additional benefits to customers.

Q. Why is it important that FPL maintain its current equity ratio?

A. FPL's current adjusted equity ratio of 55.8% was established as part of the 1999 rate settlement, and was reaffirmed in the two subsequent rate settlement agreements in 2002 and 2005. As FPL witness Pimentel addresses, the equity ratio is a key factor supporting FPL's strong balance sheet, which in turn has provided continuous access to both short-term liquidity and the capital markets throughout extreme events such as the 2004-2005 storm seasons as well as the current financial market crisis. Given this background, and in light of the current conditions in the financial markets, FPL feels strongly that the current adjusted equity ratio of 55.8% should be maintained going forward.

FPL's customers also benefit from the current equity ratio as it recognizes the additional liquidity requirements and financial flexibility that is needed in order to be able to hedge fuel price volatility for our customers, fund storm restoration activities and fund substantial construction activities. It is important, therefore, that this Commission send the appropriate signal to the financial markets regarding its intention to continue to provide the needed support for the financial strength of the Company by maintaining its current adjusted equity ratio, especially at a time when many key risk drivers point to a period of increased risk.

XI. BENEFITS TO CUSTOMERS OF FPL'S SUPERIOR PERFORMANCE

Q. Please describe how FPL has maintained superior performance and continues to provide service that is a high value to its customers.

A. FPL has achieved superior performance in the Company's key operational areas, which provides direct benefits to our customers. Our performance is described in greater detail by several FPL witnesses, but I will summarize a few of these accomplishments.

FPL witness Santos describes the high-quality customer service provided by FPL, including the recognition received by the Company as an industry leader in the area of customer service performance. For example, FPL was recently awarded the prestigious ServiceOne Award by the PA Consulting Group for the fifth year in a row. This award recognizes utilities that provide exceptional service to their customers based on objective measures developed by industry experts. This is just one of many areas in which the Customer Service business unit has been able to achieve better-quality performance, while maintaining low cost and efficient operations.

In addition, FPL customers benefit from a number of the consumer programs developed by the Customer Service business unit, including energy affordability initiatives such as FPL ASSIST and Care to Share. And customers also have received significant benefits from FPL's accomplishments in energy efficiency. In U.S. Department of Energy rankings, FPL is number one in the nation in MW reduction and number three in load management. Not only do participating customers save on their individual electric bills as a result, but these efforts have deferred the need for 12 power plants which means significant savings for FPL customers overall. And when you consider all the emissions saved by not having to build 12 power plants, this initiative stands out as an accomplishment of which we all can be proud.

FPL witness Stall describes how, from the NRC's perspective, FPL's plants compare favorably with the rest of the industry. The NRC uses a performance rating system under which the best possible rating is the "green band" rating. Since this indicator program was introduced in 2000, all of FPL's performance indicators, with one exception for one quarter, were in the "green band."

FPL witness Hardy describes how FPL has maintained an industry leading position in its fossil generation fleet's Equivalent Availability Factor (EAF), and the Company's fossil EAF performance has been either "Best in Class" or "Top Decile" for 9 of the last ten years. FPL has been able to successfully defer the need for new generating units by improving the availability of its existing fossil fleet. In addition, from 2002 to 2007 FPL was able to improve the net heat rate of its fossil generation fleet by 10%, which means that our system now requires 10% less fuel to generate the same amount of kWh than in 2002. Based on an approximate annual fossil fuel cost of $5 billion, this means customers are saving about $500 million per year from this efficiency improvement made by the Company. And it's not just money that's saved – it's our air quality. Ten percent less fuel means fewer emissions. While there is more to do when it comes to going green, we hope this shows that FPL looks to do its part wherever and whenever it can.

FPL witness Spoor addresses the superior service provided by the Distribution business unit to FPL customers as measured by the distribution SAIDI. His testimony reflects that FPL's distribution SAIDI has been the best among Florida's major IOUs for four out of the last six years. Nationally, FPL ranks among the industry leaders and, on average, has been approximately 45% better than the industry average.

FPL witness Keener addresses the strong reliability performance and effective cost management of the Company's transmission operations. For example, Mr. Keener's testimony indicates that FPL's transmission reliability was in the top quartile and that FPL was Best-in-Class for Average Duration of Sustained Outages based on the most current available data (2007).

FPL witness Bennett discusses FPL's active commitment to a cleaner, safer environment -- not just in our emissions but in how we treat the communities in which we operate. For many years, FPL has been a leader in environmental management and, as a result, has some of the lowest emission rates of SO_2, CO_2 and nitrogen oxides of all power generators in the U.S. In addition, we have developed a number of programs to manage our operations while protecting wildlife such as endangered sea turtles, manatees, and crocodiles.

Q. How does FPL's operating performance compare to the industry?

A. FPL witness Reed states that FPL has out-performed similarly sized companies across an array of operational metrics. As I discussed previously, FPL is a top performer in terms of productive efficiency, and has been first among regional utilities over the past ten years in terms of operating and maintenance expense efficiency.

He also notes that FPL's high level of productive efficiency has not been achieved at the expense of customer service or system reliability. In fact, FPL has been a top performer in controlling the duration of its transmission and distribution system outages, and has consistently achieved above average performance on the frequency of interruptions. FPL is also a very strong performer in terms of customer service quality and customer satisfaction measures.

FPL witness Reed also states that FPL's environmental focus begins with a clean and efficient generation fleet. FPL is recognized as a clean-energy company, with one of the lowest carbon emissions profiles among major U. S. utilities.

Overall he explains that it is appropriate to consider the Company's productive efficiency, service quality and responsiveness to state policies in setting the allowed return on equity. The customer benefits from FPL's superior performance are clear and substantial, and acknowledgement of this performance would be appropriate.

Q. Have customers benefited from FPL's actions?

A. Yes. While additional and longer term examples of FPL's high-quality and customer-focused performance levels are included in the testimony of other witnesses, the examples I have mentioned indicate some of the recent accomplishments that FPL has achieved. We believe that customers do see and experience the benefits of our efforts every day. However, these and other measures -- though part of FPL's continuous focus to provide superior performance at below industry average costs -- are not enough to avoid the need for an increase in base rates. We will continue to do our part to ensure we lessen the need for even higher rates in the future, but today it is clear that base rates do need to increase in order to continue to provide the kind of service and performance that our customers expect.

Q. Please describe how FPL's support of the communities it serves benefits customers.

A. FPL is committed to being a good corporate citizen and a good neighbor, helping to improve the quality of life for our customers in the communities we serve. For example, the Company makes contributions of $5 million each year which includes $3.3 million for various community investments, $1 million to the Care to Share program and $731,000 to United Way agencies. These donations are paid entirely by the Company, and customers are not being asked to fund these Company contributions. These are just a couple examples of the manner in which FPL sponsors programs and partners with many organizations throughout our communities to provide assistance to our customers in need. Customers benefit directly from these efforts, such as those who receive support from United Way or Care to Share. And all FPL customers indirectly benefit from these Company contributions. For example, helping customers in need reduces uncollectible expense that is paid for by all customers. Perhaps more importantly, our customers benefit simply because we're helping to improve the quality of life in these communities. Given the current economic challenges, this support is more important than ever. Again, none of these costs are included in FPL's rate request - these are entirely corporate and employee funded initiatives.

XII. CLOSING COMMENTS

Q. Do you have any closing comments?

A. Yes. FPL has worked hard to establish itself as a low-cost provider of high-quality electric service. The Company's results reflect the efforts of a strong management team and a quality-driven work force, efforts that have been facilitated through progressive and responsible regulation. Collectively, these efforts enabled the Company to support the significant rate reductions made in 1999 and 2002, and more recently have succeeded in delaying as long as possible increases in FPL's retail base rates while keeping pace with Florida's long-term growth and demand for energy. Indeed, but for the base rate decreases implemented by the Company in recent years, FPL's need for an increase at this time would be much lower.

We are very aware of the challenges customers are facing in this economy, and we recognize that no increase in price is ever welcome; however, the increase requested by the company is necessary and appropriate in order for the Company to invest in our infrastructure, making it more robust and resilient, to improve fuel efficiency, to give customers more choices and information by which to manage their energy usage, and to work toward a cleaner environmental footprint. These are tremendously important objectives if we are to work toward securing Florida's energy future, and cannot be abdicated to someone else or placed on the back burner for some future consideration.

We need to move forward today to secure Florida's energy future. Given our existing profile, and our current rate structure, FPL and its customers have the opportunity to do so with minimal or only modest bill impacts, compared with much of the industry. At the same time, with these challenges, and the need to continue to raise large amounts of capital to continue to responsibly and reliably serve our customers, we must retain investor confidence in the most uncertain and volatile capital market that this country has experienced since the Great Depression.

We know that our customers feel the costs of everything today. This is the effect that recessions have on consumers. But we also know that as their utility, we cannot afford to compromise on safe and reliable energy. At FPL, we will continue to do our part – and we will continue to reduce costs wherever we can. Our track record is a proven one. But for the reasons I have summarized, and other FPL witnesses in this proceeding will explain in detail, an increase in retail base rates is necessary at this time. Significantly, however, given improvements in fuel efficiency and recent fuel price projections, it appears that the total bill for almost all customers would go down in 2010 even with the required base rate increase, with subsequent increases not occurring until 2011 when most observers expect to see some of the current economic hardships begin to lift. This will be the right result for our customers as it will afford them near term relief from increases in their electric bill, while ensuring that FPL can continue to provide safe and reliable electric service at the levels its customers expect and deserve.

Q. Does this conclude your direct testimony?

A. Yes.

ERRATA SHEET

(X) DIRECT TESTIMONY, OR ( ) REBUTTAL TESTIMONY (PLEASE MARK ONE WITH "X")
WITNESS: Armando J. Olivera

PAGE #	LINE #	CHANGE
24	5	Change amount from $27 million to $23 million
AJO-2	Entire	Changes consistent with errata changes to the FPL witness Deaton exhibit RBD-2

BY MS. CLARK:

Q. And do the exhibits attached to your testimony consist of AJO-1 and AJO-2?

A. Yes, they do.

Q. And are those exhibits true and correct to the best of your knowledge?

A. Yes, they are.

MS. CLARK: Mr. Chairman, I would note that Mr. Olivera's exhibits have been premarked for identification as Numbers 38 and 39 on staff's exhibit list.

CHAIRMAN CARTER: Hang on one second. Hang on one second before we go further.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair.

Just to Ms. Clark, with respect to revisions to the prefiled testimony on Page 11, Line 11, would Mr. Keener's testimony need to be -- or Mr. Keener's statement need to be replaced by Ms. Sonnelitter?

MS. CLARK: Thank you, Commissioner Skop, and that would be true at other places in the testimony, as well.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Okay. Anything further before you proceed?

MS. CLARK: Yes.

CHAIRMAN CARTER: Okay.

BY MS. CLARK:

Q. Mr. Olivera, have you prepared a summary of your direct testimony?

A. I have.

Q. Would you give it at this time?

A. Thank you. Mr. Chairman, members of the Commission, on behalf of Florida Power and Light's nearly 11,000 employees in the state of Florida, thank you for the opportunity to be here.

In today's economic climate we want to be sure that we clearly explain why our rate proposal is the right course of action. My testimony will focus on what we have done in the past to provide affordable and reliable service to our customers and why approval of our rate request is necessary to allow us to continue to do so in the future.

Since we last received a general base rate increase in 1985, more than 23 years ago, FPL has added almost 2 million new customers, peak demand has nearly doubled, and FPL has invested $26 billion. This includes $5.9 billion in the construction of new generating capacity and $11.7 billion in the expansion of FPL's transmission and distribution system.

Despite these expenditures, FPL has reduced base rates twice in the last ten years for a total customer savings of $600 million per year. We have also provided customers with refunds of more than $225 million through revenue sharing. As a result, over the past decade our customers have received total base rate savings of more than $6 billion.

Our investments have provided significant benefits to our customers. We have made our generation fleet more efficient with a system that now requires 10 percent less fuel than it did in 2002 to generate the same amount of electricity. We are one of the cleanest utilities in the nation. We have invested to make our infrastructure stronger every day in good weather and bad resulting in overall system reliability that has been approximately 45 percent better than the national average. And we have delivered high levels of reliability while maintaining a strong focus on keeping costs low and avoiding rate increases.

In each of the last ten years FPL has consistently been a low cost leader. We have always been focused on maintaining strict control on costs in both good economic times as well as in more challenging times. Thus, in today's economic climate it is particularly significant for our customers that as a result of our efforts, FPL has the lowest typical residential bill of all 54 electric companies surveyed by the Florida Municipal Electric Association.

Now, however, based on our projected costs, capital expenditures, and revenues, all of the things that comprise the base rate of a utility company, we find ourselves in the position of needing base rate relief. Even with the necessary increase, we expect to remain among the lowest cost providers in the state of Florida and will continue to provide excellent service and value to our customers. And we will continue to make investments that we believe will result in significant customer benefits.

We anticipate that we will spend more than 5.6 billion in capital between 2006 and 2010. Additional capital expenditures will be needed in 2011, as well. This investment will continue to make the system cleaner, more resistant to storms, and better able to provide customers with information to manage their energy use. But we simply cannot pursue these goals without appropriate returns for the investments that have been made in the past and that we need to make in the future.

With fuel costs for 2010 projected to be substantially reduced due to lower prices and FPL's commitment to fuel efficiency, we project that the typical customer bill will decline in January, even with the requested base rate increase. In the midst of a difficult economy, our rate request will provide near term financial relief while ensuring that we can continue to invest to provide safe and reliable electric service at the levels our customers deserve. We think that's the right outcome. I hope you agree. And thank you for the opportunity to address you today.

MS. CLARK: Mr. Chairman, we tender the witness for cross-examination.

CHAIRMAN CARTER: Thank you.

Mr. McGlothlin, you're recognized.

MR. McGLOTHLIN: Yes, Chairman Carter.

CHAIRMAN CARTER: Turn your mike on there.

MR. McGLOTHLIN: I believe it is on.

CHAIRMAN CARTER: Chris, can we get some more volume there?

MR. McGLOTHLIN: The intervenors who are aligned have discussed order of cross-examination, and if it is all right with the Commissioners, unless something out of the ordinary happens, OPC will go first, South Florida Hospital and Health Association second, FIPUG, Attorney General, the Florida Retail Federation, and the City of South Daytona, if that is acceptable.

CHAIRMAN CARTER: Absolutely.

CROSS EXAMINATION

BY MR. McGLOTHLIN:

Q. Good afternoon, sir.

A. Good afternoon.

Q. Mr. Olivera, in your prefiled testimony you refer several times to the expectation that while the company is asking for a base rate increase in this proceeding, the 2010 total bills will be lower by virtue of anticipated decreases in fuel costs, is that correct?

A. That is correct.

Q. I have a couple of questions for you about those statements, and it may be that the easiest way to pose the questions to you is by reference to this handout, which is your Exhibit AJO-2, Page 1 of 1, if you have that available to you. You show there that, in the middle bar, January 2010, the relationship is that the base rate increase -- the base rate included in increases would be $51.10, correct?

A. Correct, for January 2010.

Q. And the fuel component of the 2010 bill is projected to be $35?

A. Correct, for the average residential bill.

Q. Now, do I understand correctly that with respect to how those costs are either incurred in the example of fuel, or set by the Commission, they take place independently of each other, do they not?

A. No, I would not agree with that. I think one of the points that we are making in this rate case is that, yes, we cannot control what happens in fuel markets, but we can control the relative -- we can make investments to improve the relative efficiency of our plants, which has a direct impact on how much fuel we burn. So if you look at the investments we have made since 2002, for example, we know that the system is 10 percent more efficient, so were it not for that, this number would be significantly higher than it is.

Q. My question goes to this relationship, and I will use a hypothetical. You have shown a base charge of 51.10 and projected fuel costs of $35. If the fuel costs were to instead amount to $36, as I understand it FPL is not offering to reduce the base portion to $50.10, is it?

A. No. Fuel is a direct pass-through.

Q. That's what I thought.

At Page 19, Line 5 of your testimony, you say the structure of FPL's request in this case is such that based on recent fuel price projections, bills are projected to be lower in 2010 than they were in 2009, with subsequent increases not occurring until 2011 when most observers expect to see some of the current economic hardships begin to lift?

A. I'm sorry, I am having trouble finding -- could you repeat what page you are on?

Q. Page 19, beginning at Line 5.

A. Okay.

Q. Take a moment and read that if you wish.

A. Uh-huh. I have it.

Q. I am interested in understanding the manner in which you use the word structure. Now, you agreed with me a moment ago that by structure you do not mean to imply that there would be an increase or decrease in the base portion depending on whether the fuel forecast was higher or lower. Remember that question and answer?

A. I do.

Q. Now, with respect to the statement that subsequent increases would not occur until 2011 when most observers expect to see some of the current hardships begin to lift. The structure of the case as I understand it is based upon projections for 2010 and separate projections for 2011, is that correct?

A. You are reading something that was not -- your interpretation of what structure -- structure was really meant to say these are the components of the bill.

Q. Okay. So by your reference to the structure of the request, you are not suggesting that certain potential increases were foregone for 2010 and delayed until 2011?

A. No. I am offering you our projection for both the base rate increase based on what we filed, and our best projection based on forward market prices for the fuel cost, or the fuel component of the bill.

Q. And those 2010 and 2011 projections for the base rate portions were separate and stand alone analyses, were they not?

A. They are -- the projections are separate projections, but as I mentioned to you earlier, there is a relationship between the fuel and the investments that are represented in the base increase. So, for example, the 2010 base rates reflect the in-service of two generating units, West County 1 and West County 2, both of which will provide greater efficiency to the system. And so, therefore, it reflects an incremental benefit in efficiency that is not in the '09, and which is why you can't look at these pieces completely independent.

Q. Yes. My question now relates solely to the base rate portion of the bill and solely to the comment that certain increases -- subsequent increases won't occur until 2011. And do I understand correctly that FPL did not make a conscious decision to forego a portion of the increase and delay that until 2011 when it expected the recovery to begin?

A. I'm not clear on your question. When you are talking about forego a portion of the increase, you are talking about -- base rates are going up and fuel is going down, so --

Q. Yes, sir. I am no longer talking about fuel.

A. Okay.

Q. I am talking solely about the base rate portion of the bill and the statement that bills -- that subsequent increases at Line 7, not occurring until 2011 when most observers expect to see some of the current economic hardship to begin to lift.

A. Right. This 2011 comment was made in the context of the total bill, and the total bill was driven by a combination of small adjustments to base rates and a forecasted increase in the price of fuel, so that the bill would increase between 2010 and 2011.

Q. I see. Now, focusing again on AJO-2, Page 1 of 1, do I understand correctly that the base portion shown for 2011 does not include the cost of the West County 3 unit?

A. I believe that it is. There is -- in the total bottom component, I believe there is, subject to verification, I believe West County 3 would be in that number because it is scheduled to come in service at the end of 2011.

Q. I'm trying to correlate that response with the fact that aside from the West County 3 unit and based solely on the 2011 projected subsequent test year adjustment there would be an increase of about $240 million, would there not?

A. Well, I believe that number has a combination of our subsequent year costs for 2011, which is not just limited to the in-service date of West County 3.

Q. If you will turn to Page 22 of your direct testimony. At the bottom of the page there is a bullet point that describes the depreciation component of the request and the manner in which it is a driver. Please take a moment and read the last three lines of 22 and the first four lines of Page 23.

At I understand it, Mr. Olivera, this passage refers to that provision of the 2005 settlement agreement that authorized FPL to credit depreciation in the amount of $125 million annually for the four-year term of the settlement agreement, is that correct?

A. That is correct. That is one part of the information in this bullet.

Q. And that had the effect of reducing your annual depreciation expense during each year the credit was implemented, correct?

A. Correct.

Q. And it also had the effect of increasing future rate base, correct?

A. Correct.

Q. And so your calculation of the revenue requirements for 2010 reflects both the discontinuation of that credit, which increases revenue requirements by the $125 million, as well as the revenue requirements associated with that increase in rate base that occurred because of the credits that were taken, correct?

A. That is one of the components. And we have really three different witnesses that will address the depreciation calculations in a lot more detail than I am competent to do here today.

Q. I don't intend to pursue that further with you, just to establish on a conceptual basis the fact that FPL did avail itself of those credits during the four-year term of the agreement, and they had the effect of increasing rate base beyond what it would have been?

A. That is correct. It was part of a global settlement that we had of which this is one component. And I would just like to remind the Commission that in addition to that we also gave up the nuclear decommissioning costs. We also got approval for the GBRA. There were a number of components to the settlement, and this was one piece of that settlement.

Q. You referred to the GBRA component of the overall settlement. Would it be fair to say that the GBRA was an exception to an otherwise limitation on the ability of the company to seek adjustments in base rates during the term?

A. No, I wouldn't classify it as an exception. I think that it was a progressive kind of ratemaking tool.

Q. Well, would you agree that the effect of the settlement was to limit FPL's ability to seek increases in base rates during the term of the settlement?

A. The settlement was -- had in it a combination of factors.

Q. Yes.

A. And part of it was an agreement to freeze a portion of base rates, but it allowed us to recover base rates on new generation that was scheduled to come in service. And I may add it was the one -- the first one that went in service was Turkey Point 5. Turkey Point 5 went in service, and it provided immediately customer benefits, fuel savings that virtually offset -- actually, it was a little bit better than the revenue requirement associated with that unit.

So, from my perspective, it really synchronized when the cost was coming in and when the customer was getting the benefit of that facility. So in that sense, I think it was a win-win, and that is the reason I'm saying that this was really progressive ratemaking.

Q. In your answer you said that the settlement provisions froze a portion of base rates. Would you agree with me that the settlement froze base rates with the exception of the ability to roll those incremental generation costs into service?

A. Well, as I said, there were a number of other components in the agreement that actually helped us improve the profitability of the company, including not having to continue to make contributions to the nuclear decommissioning, because we all agreed that we thought that we probably had adequate funding for that. So you can't just look at one piece of this.

Q. I understand there are other provisions. My question goes to the interplay between limitations on the ability of the company to seek increases in base rates on the one hand and the introduction of the GBRA as a component of the settlement on the other hand. Would you agree with me that the GBRA constituted the only mechanism by which FPL could seek an adjustment in base rates during the four-year term of the settlement?

A. Not completely. I mean, we agreed over a four-year period not to come in for a base rate increase unless our overall return on equity fell below 10 percent. So there were some safety valves built into that agreement that I think are also worth pointing out. It was one of the ways that we got comfortable with taking on the risk of not coming in for four years.

Q. I accept your qualification of the 10 percent safety valve.

MR. McGLOTHLIN: Thank you, sir. That's all the questions I have.

CHAIRMAN CARTER: Okay. South Florida Hospital, you're recognized.

MR. MENDIOLA: Thank you, Mr. Chairman.

CHAIRMAN CARTER: Turn your mike on there.

MR. MENDIOLA: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. MENDIOLA:

Q. Mr. Olivera, my name is Lino Mendiola, and I represent the South Florida Health and Hospital Association. How are you doing?

A. I am doing fine. Thank you.

Q. Good. Mr. Olivera, you are the president and chief executive officer of Florida Power and Light, isn't that correct?

A. That is correct.

Q. And in that role you have general responsibilities and oversight for the operations of FPL, is that correct?

A. That is correct.

Q. Including this rate case, isn't that right?

A. That's right.

Q. All right. Now, you make a statement -- first of all, let me start with making sure I understand the request that FPL is seeking in this case. You propose an increase of $1.12 billion to be effective on January 1, 2010, is that correct?

A. There has actually been adjustments that have been made, and so the numbers have changed just a little bit.

Q. All right. And I was looking at Page 32, Line 17 of your testimony, sir, so if there is an adjustment there, let's make that.

A. Yes. The overall increase of a 1.44 billion there, we have submitted an errata sheet that changes that to 983.

Q. So on Line 14, the 1.44 billion is changed to 983?

A. That is correct.

Q. And what is the change on Line 17, the 1.121 billion?

A. Oh, I don't have my calculator. I can't do my math anymore without looking at it, but the new number went down 7 million, so take -- I don't want to do my math on the stand in my head.

Q. 1.16 billion, is that correct?

A. Add 983 and 240, that would be the combined for 2010/2011 plus West County 3, which is still $182 million.

Q. All right. Let me make sure that I have this straight. So, 983 is for January 1, 2010, is that correct?

A. 983, correct.

Q. All right. Plus how much for January 1, 2011?

A. The 2011 number is 240.

CHAIRMAN CARTER: Excuse me. Hang on a second. Could you pull your microphone a little closer to you?

THE WITNESS: Yes, I would be glad to.

CHAIRMAN CARTER: And start with the calculation again, please, sir.

BY MR. MENDIOLA:

Q. We began, sir, with the adjustment 983 million effective January 1, 2010, is that correct?

A. 983 in 2010.

Q. All right. And then the additional amount for the subsequent year adjustment in January 1, 2011?

A. Is 240, but then the math gets a little complicated because there is also a shift from basis to clauses.

Q. Well, that is what I'm trying to understand. And do you have that number or is that something that we should ask someone else?

A. Yes. I think to get the whole reconciliation somebody can who can walk you through with a calculator in hand is better qualified than me. So I will ask Mr. Barrett to kind of walk you through that math.

Q. All right. Well --

A. But suffice it to say the number is lower. It reflects primarily changes in taxes as a result of the economic stimulus bill that were not known at the time that the original filing was made.

Q. Let me just make sure I understand this, sir, because I had some -- according to the direct testimony that you filed, that effective January 1, 2011, the sum that the company was seeking was $1.369 billion. And you are saying that that number is now lower?

A. Repeat the number again.

Q. 1.369 as the -- that was the 1.121 billion from Line 17.

A. Yes, I have a slightly different number than you do, but --

Q. All right. Can you give me within 100 million or so what the company is seeking as of January 1, '11?

A. It is a combination. It is for 2010, $983 million, for 2011, $240 million.

Q. All right.

A. Okay.

Q. Thank you very much. Now, you have testified that -- this is on Page 5, line 14 -- that FPL's total bill as of January 2009 is the lowest of all Florida investor-owned utilities, is that correct? That is at Page 5, Line 14.

A. That is correct.

Q. All right. I would like to hand you a document, which is the Commission's own rate comparison calculation. You would agree with me that whether or not FP&L has the lowest overall bill depends on when you examine the bill, is that correct?

A. That is correct.

Q. All right. And so you have examined this for your testimony as of January 2009, and you are aware that the Commission also conducts bill comparisons and posts that analysis on its website, is that correct?

A. That is correct.

Q. All right. And so, I think my colleague has handed to you the comparative rate statistics.

CHAIRMAN CARTER: Hang on. Hang on a second. Let's let all the parties get a copy first before you go further. I appreciate your speed, though.

MR. MENDIOLA: Mr. Chairman, I --

CHAIRMAN CARTER: You've got a friend in me.

MR. MENDIOLA: I was trying to finish -- I don't know how late you would like to go, but I was trying to finish before 5:30. That may or may not be possible.

CHAIRMAN CARTER: It may or may not be possible, but you and I have got that jedi knight thing working real good right now.

MR. MENDIOLA: Very good.

Housekeeping, I believe this is going to be Exhibit Number 383.

CHAIRMAN CARTER: Marked for identification, Number 383. I think that you may have been told by staff in the prehearing about short titles. Can you give us a title for it?

MR. MENDIOLA: Yes, sir. This is FPSC Comparative Rate Statistics, 12-31-08.

CHAIRMAN CARTER: Okay.

(Exhibit 383 marked for identification.)

MR. MENDIOLA: How about Rate Comparison, 12-31-08.

CHAIRMAN CARTER: Okay. Next time come up with a better one, okay? We will give you a by this time. Okay. You may proceed.

MR. MENDIOLA: Very good, Mr. Chairman.

BY MR. MENDIOLA:

Q. Mr. Olivera, do you have a copy of that document?

A. I do.

Q. All right. And if you could turn with me to what is marked as Page A-1, which is about probably the 10th or 11th page in.

A. I have it in front of me.

Q. All right. It is the typical electric bill comparison for residential service. Do you see that?

A. I do.

Q. All right. Let me ask you, sir, what is the actual average residential kWh usage in a month?

A. It for FPL is around 1,100 kilowatt hours, except that, so that we can kind of true it up all up, it is normal in this industry to use 1,000 kilowatt hours as kind of the measure. So when we talk about the average residential bill, we are talking about a bill that is 1,000 kilowatt hours.

Q. I understand, and that is your exhibit. My question was simply what the actual average is and the answer is around 1,100 kwH?

A. For FPL.

Q. For FPL. And this exhibit calculates the total typical electric bill at 1,000 kWh and at 1,500 kWh, isn't that correct?

A. That is correct.

Q. And at 1,000 kWh as calculated by the Commission as of 12-31-2008, Florida Power and Light is not the lowest total bill, isn't that correct?

A. For 1,500 kilowatt hours as represented here.

Q. Well, my question was with respect to 1,000 it is not the lowest total bill?

A. It is not the lowest total bill as shown here.

Q. All right. And with respect to 1,500, it is not the lowest total bill, isn't that correct?

A. Correct.

Q. In fact --

A. I would just like to clarify a point, though. First of all, when we filed --

Q. Sir --

CHAIRMAN CARTER: Let him explain.

THE WITNESS: -- we file based on projections of where we thought the different companies would be. And while it is correct that this shows that FPL is number two based on the most recent comparison that was published by the Florida Municipal Electric Authority, which I think is a reputable third party, it shows, again, that FPL's average residential bill based on 1,000 kilowatt hours is the lowest of all 52 electric utilities in the state of Florida.

BY MR. MENDIOLA:

Q. And we have agreed already that that comparison depends on when you take that snapshot, isn't that correct?

A. Right. And I am telling you that it is the most recent information that we have, and it is the most recent information that has been published.

Q. Yes. And you understand that the intervenors had to prepare their testimony not on the most recent, but on the information provided in your direct case, isn't that correct?

A. I understand that.

Q. All right. Now, if you turn with me to Page A-4, which is just a few pages later, this is the commercial and industrial bill comparison. Do you see that?

A. I do.

Q. And this is with respect to 1,000 kilowatts or one megawatt of demand, isn't that correct? There is a column on that, 1,000 megawatts -- or 1,000 kilowatts. Do you see that?

A. I see 1,000 kW demand at the top.

Q. Yes, which would be the same as one megawatt, right?

A. Correct.

Q. And Florida Power and Light has indicated on this Commission prepared exhibit as having the highest bill for a commerical/industrial customer at 1,000 kW, isn't that correct?

A. That is correct.

Q. Thank you. Now, you testified, sir, that today is a bleak economic climate. That is at Page 4, Lines 11 and 12. Do you recall that?

A. Let me just confirm.

Q. Sure.

A. Correct.

Q. Yes. And I take it that you are referring to the recession that is plaguing the economy right now?

A. It is certainly a very challenging economic time, yes.

Q. And part of that challenging economic time is the decline in the value of home prices, that is one of the challenges, isn't it?

A. It is certainly one of the components. It is what is happening in housing prices.

Q. And have you heard, sir, that the federal government is foregoing cost of living allowances for Social Security checks this year?

A. I'm not familiar with all the actions that the government is taking.

Q. All right. And it is against that backdrop that this company is seeking a 12.5 percent ROE, isn't that correct?

A. That is correct.

Q. All right. Now, you have also made a comment about not only the total bill as of January '09, but also your projection with respect to the bill as of January 2010. And this is at Page 6, Lines 12 and 13 of your testimony. This is your statement that it is projected that FPL's customers will likely see their total bill decrease, not increase, effective January 1, 2010, isn't that correct?

A. Correct.

Q. All right. And you have already answered a few questions. I wanted to turn you to your AJO-2, which was included in your direct testimony, if you can get there with me.

And I see that the document that you handed out today is slightly different than the document that you included in your direct testimony, is that correct?

A. That is correct. It reflects lower fuel prices for both January '10 and January '11.

Q. And to the extent that it reflects lower fuel prices, then your statement that the customer can expect a lower total bill is more correct, I guess, is that right?

A. It is a greater benefit to the customer. And the customer will now see approximately a $9 decrease in the bill.

Q. And, obviously, this is a base rate case, isn't that right?

A. It is a base rate case, but when we talk about base rates, you cannot ignore the impact that the investments that are being made, the impact that they have on fuel and fuel consumption. Just to remind this group, you know, one of the issues that we struggle with at FPL is the dependency that we have on natural gas. Fifty percent of our fuel, our energy that we produce is natural gas, and that fuel has historically had huge volatility in prices. And so anything that we can do to improve the efficiency of our system and to reduce that total bill and what -- the total gas component of that bill is really pretty important and pretty significant.

MR. MENDIOLA: Objection, non-responsive.

BY MR. MENDIOLA:

Q. My question, sir, was this is a base rate case, isn't that correct?

A. This is a base rate.

Q. All right. And there is nothing that this Commission can do as a result of this case that will impact the fuel clause, isn't that correct?

A. I disagree with that statement. This Commission can either encourage us to continue to make the investments that we have been making to make our system more efficient and cleaner, or it can signal through a number of decisions that they can make that they no longer want us to continue in that path, a path that I think has served our customers well.

Q. Well, I want to ask you about this exhibit, if you don't mind. Since this is a base rate case, let's focus, if you don't mind, on the base rate portion of AJO-2. And what I would like you to do for me is -- this is on the one that was -- the exhibit that was attached to your direct testimony. That is the one that we had several months ago and could prepare our case based upon, isn't that correct?

A. That is correct.

Q. All right. And for January 2009, the base rate component indicated in your chart was $39.31, is that correct?

A. That is correct.

Q. And if you compare that to the proposed base rate component of the January 2011 bill, $54.55, the difference is $15.24, is that correct? If you need to borrow a calculator, I'll be glad to --

A. I am checking your math. I think that is right.

Q. All right. And if we were to do simple arithmetic and take $15.24, which is the difference between those two base rates components, divide that back over the January 2009 amount of 39.31, then we get a 38.8 percent difference, isn't that correct?

A. I can't do that much math in my head anymore.

Q. All right. Would you take that subject to verification or would you like me to bring a calculator in?

MR. MENDIOLA: Thank you, Mr. Moyle.

BY MR. MENDIOLA:

Q. Again --

A. No, I'm not going to do this here on the stand. I'm sorry. I am not going to sit here and use the calculator. I will give you that information.

Q. Very good. And the information that I am simply seeking is to compare the company's base rate -- proposed base rate as of January 2011 --

A. I would grant you that it is a base increase from January '09 of $39.31 to a base rate increase request that would bring it to 54.55 as originally submitted, which has now come down to 53.87.

Q. Very good. Thank you very much. And the math on the percentage increase is whatever it is?

A. Exactly.

Q. All right. Very good. Now, with respect to the total bill -- we have talked, obviously, about fuel, and you have mentioned FPL's dependence on natural gas. FPL is largely dependent on natural gas to fuel its generation fleet, isn't that correct?

A. Correct. About 50 percent of our energy is generated by natural gas.

Q. And if we were going to really compare fuel prices, you would agree with me that natural gas is a highly volatile commodity in terms of its price, isn't that correct?

A. Yes, I would.

Q. And do you know, sir, what natural gas price is embedded in the 41.96?

A. I can describe to you what is embedded. What is embedded in certainly the update is the same information that we filed in the fuel clause filing last week, and it reflects the forward market prices, I believe as of either the 10th or the 13th of August.

Q. Do you know whether that is a $4 natural gas price, or $3, or 3.50?

A. It is -- no, I can't tell you off the top of my head what the exact forward prices that were used.

Q. Let me ask --

A. But it is a market price, and it is if you went out that day and you locked in the fuel for the following calendar year.

Q. And that's my --

MS. CLARK: Mr. Chairman, I would ask you to ask the attorney to allow Mr. Olivera to finish his answer before he asks the next question.

MR. MENDIOLA: Your Honor, I have tried to do that, and I will be glad to make an extra effort to do that.

CHAIRMAN CARTER: You probably had too much coffee during lunch, but that's okay.

MR. MENDIOLA: Probably not at lunch.

CHAIRMAN CARTER: Just take your time. We've got time. Just take your time. It's all right.

BY MR. MENDIOLA:

Q. All right. Mr. Olivera, my question to you was whether you knew approximately what the natural gas price is that is embedded in your -- the fuel component of your total bill in either January 2010 or January 2011?

A. I am afraid to speculate, but I -- it is probably in the $5 range or probably higher.

Q. All right. And has the company --

CHAIRMAN CARTER: Excuse me for interrupting. You wanted to mark this as an exhibit for identification, 384?

MR. MENDIOLA: Yes, sir.

CHAIRMAN CARTER: And we will just use the title on it, Commissioners, Exhibit Number 384, Natural Gas Futures Trading Chart with Historical Prices.

(Exhibit Number 384 marked for identification.)

CHAIRMAN CARTER: Okay. You may proceed.

MR. MENDIOLA: Thank you, Mr. Chairman.

BY MR. MENDIOLA:

Q. Has the company actually bought forward that natural gas that it will use to fuel its generation fleet in January 2010 to January 2011?

A. Yes. The company has bought some of those financial instruments to lock in a certain percentage of the price.

Q. But not all of it.

A. But not all of it.

Q. And I take it that in your role as CEO, you monitor and are aware of natural gas prices and future prices, isn't that correct?

A. I do look at it.

Q. And you are aware -- this is the document I just had handed to you. You are aware that in July of '08 natural gas was over $13 MMBtu, isn't that correct?

A. I am painfully aware of the big run up in gas prices.

Q. And it has dropped down today to below $3, isn't that correct?

A. That is today's price, yes.

Q. And that is simply to show how volatile the natural gas commodity is, isn't that right?

A. I would not disagree with you that it is very volatile.

Q. Which is why it is helpful to compare apples-to-apples in terms of a base rate case by looking at the base rate component of the bill, isn't that correct?

A. I would not say -- I would not agree with that. Again, it is exactly precisely because of that volatility, the same way that it has come down this fast. Look how fast in his own chart it went -- in January of '08 it went from $8 to $13 over the span of seven months. And it is exactly why we have to be so careful and make sure that we continue to make investments to try to do whatever we can, whether it is a combination of making the fossil fleet more efficient, whatever ways we can to increase the contribution that nuclear makes to our fleet, whatever else we can do. Because it is -- quite frankly, it can have a huge impact on our bills, and none of us can control what happens in natural gas markets, not even a company as big as Florida Power and Light.

Q. And if natural gas were to go up as fast as it has come down, and if it were to go back up to $13, the decline in the total bill that you are projecting would disappear, would it not?

A. That is correct.

Q. All right. Now, Florida Power and Light you mentioned has not had a base rate case in over 20 years, isn't that correct?

A. I believe I said 23 years.

Q. Twenty-three years. Now, since that time, Florida Power and light has added over 2 million customers, isn't that correct?

A. Correct.

Q. And more than doubled its peak demand, isn't that correct?

A. That is correct.

Q. And when you add more customers and double your demand, you are essentially selling more electricity, isn't that right?

A. That is correct.

Q. And when you sell more electricity you collect more revenue, isn't that right?

A. That is correct.

Q. All right. So, the fact that there has been no base rate case certainly doesn't mean that your revenue has stayed the same, isn't that right?

A. That is correct. There has been a number of changes, that is one component. There have also been changes in tax laws during that period of time. I mean, there have been -- and I can't walk you through all of the things that have gone on, but it hasn't been solely based on the revenue, although revenue has been a significant component of that. We have been able to kind of make the investments kind of in line with the customer growth and the sales growth.

Q. Mr. Olivera, in your role as CEO, you have an opportunity to review and actually sign off on FPL Group's 10K, isn't that correct?

A. I sign off on Florida Power and Light's.

Q. I'm sorry, Florida Power and Light's 10K?

A. Correct.

Q. All right. My colleague is handing you a copy of the -- it has entitled FPL Group, Inc., Florida Power and Light Company 10K from --

CHAIRMAN CARTER: Do you seek a number for --

MR. MENDIOLA: This will be Number 385.

CHAIRMAN CARTER: Commissioners, for your records, Number 385, and as soon as I get my hands on it, I will tell you what the title will be.

MR. MENDIOLA: FPL 2008 10K.

CHAIRMAN CARTER: I like that better.

(Exhibit Number 385 marked for identification.)

CHAIRMAN CARTER: Go ahead. You may proceed.

MR. MENDIOLA: Thank you.

BY MR. MENDIOLA:

Q. And if we turn this document just to the very last page on the back, that is your name on there as the President and CEO of Florida Power and Light, isn't that right?

A. Right. Correct on Page 122.

Q. Thank you, sir. And isn't it true that Florida Power and Light generates around $800 million per year of profit?

A. In that general range, yes.

Q. And that it pays substantially all of that income up to FPL Group in the form of a dividend?

A. That is correct.

Q. All right. Now, you testified regarding some of the changes that have occurred since the last base rate case. Some of those changes that have occurred are with respect to certain cost-recovery clauses that have been implemented since the last base rate case, isn't that correct?

A. There have been a number of changes in the clauses, but I think it is important to note that if you take out the fuel, the fuel clause, the relative contribution of clauses is the same, roughly the same now as it was in 1985.

Q. Well, and the fuel clause alone is -- in fact, let's just go to the 10K, if you don't mind. And at Page 30 of the 10K, there is a small table that indicates that in 2008 FPL generated around $11.6 billion of revenue, is that correct?

A. That is correct, which more than half was the fuel cost-recovery.

Q. Yes, sir. And if we were to calculate the percentage of Florida Power and Light's revenue that is recovered through cost-recovery clauses, including fuel, we would take that 6.2 billion of fuel, and add that to the 1.5 billion of other cost-recovery clauses and sum those for approximately 7.7 billion, isn't that correct?

A. That is the correct math.

Q. All right. And so of Florida Power and Light's approximately --

A. 7.7, not 7.5.

Q. Yes, sir, 7.7. Of the approximately 11.6 billion of revenue that Florida Power and Light generates every year, approximately 7.7 percent (sic) is recovered through cost-recovery clauses, isn't that correct?

A. Right. But we do not make money on that $7.7 billion. As I think you know, all of the fuel and a significant portion of the others are pass-through costs. FPL makes zero on those clauses.

Q. And just so the record is clear, I think I said 7.7 percent. I meant to say $7.7 billion of the $11.6 billion.

Yes. And you would agree with me that from the perspective of investors, investors view the cost recovery clauses as a risk mitigation measure compared to if those costs had to be recovered through base rates?

A. Certainly when investors look at FPL, and they look at the relative risk profile, they look at our ability to recover various costs of which fuel is a significant one, and we have an opportunity to earn up to the amount of fuel that we spend, but we have to come through the process, and we have to show you that those costs were incurred prudently.

Q. So, to put some meat around this, the largest of the cost-recovery clauses, as we discussed, is the fuel recovery clause, and then there are other ones, including a capacity clause, isn't that correct?

A. There is a capacity clause, and the capacity clause is primarily for purchased power, purchased power obligations that the company has that, again, it is a direct pass-through.

Q. And that amounted to about 517 million in 2008, is that correct?

A. I can't tell you off the top of my head.

Q. All right.

A. 515 if you look at Page 31, the table that says other primarily capacity charges, net of any capacity deferral.

Q. Thank you. 515 million. And then in addition there is a nuclear capacity recovery clause, isn't that correct?

A. Nuclear cost-recovery.

Q. Thank you. The nuclear cost-recovery clause and that allows the company to recover dollar-for-dollar all costs, including preconstruction costs associated with nuclear capacity, isn't that correct?

A. There is, exactly. That is the clause is intended to, passed by the Florida Legislature, to promote new nuclear in the state of Florida and allows us to recover those costs.

Q. And those costs are carried and earn interest at the AFUDC rate, isn't that correct?

A. That is correct.

Q. And certainly investors would view the recovery of costs associated with the preconstruction costs of nuclear capacity recovered through this clause as a risk mitigation device compared to if the company had to incur those costs and recover those costs through base rates, isn't that correct?

A. Certainly. And I think that was the intent of the Legislature was to get investors comfortable with new nuclear. I don't think that our company or very many other companies would be able to move forward in new nuclear without having some mechanism to recover the development costs.

Q. Then there is also the energy conservation clause, isn't that correct?

A. That is correct.

Q. And that includes the recovery of costs associated with the solar generating facilities, isn't that correct?

A. That is one component.

Q. And that component is about $182 million, is that correct?

A. I can't tell you off the top of my head, but, again, that was an item that was passed by the Florida Legislature to promote renewable energy in the state of Florida.

Q. And the same thing would be true that investors would view the recovery of the costs associated with renewable energy as recovered through a clause as a risk mitigation device compared to if those costs were recovered through base rates?

A. That is correct.

Q. All right. And then, finally, there is storm cost recovery that is -- has been allowed by the Legislature to be recovered through bonds that have been sold, isn't that correct?

A. Securitization of storm costs, is that what you are referring to?

Q. Yes, sir. And just to be clear, when the company sold $652 million of bonds to recover the costs associated with the 2004 storm and 2005 storm, it also sold bonds to replenish the storm reserve in the amount of around $200 million, isn't that correct?

A. It was a component that was associated with rebuilding the storm reserve, yes.

Q. All right. And the purpose of securitizing storm costs in the form of bonds is to lower the cost to ratepayers for paying for storm costs compared to if ratepayers had to pay those costs through base rates, isn't that correct?

A. Correct. But my view of the storm cost bond is that it is really meant for extraordinary circumstances when you have huge storm costs. Between 2004 and 2005 we incurred almost $2 billion of storm costs. And as you may recall, we came in once in the middle of that crazy season, those two crazy seasons, and we asked for a surcharge on the bill, which was approved. And then we got hit again by more storms.

As a matter of policy, you know, if this was any other business, and we had an insurance cost for storms, we would say that is a cost of doing business. And in this environment we are concerned that if Florida had really a major storm or -- we think the rates should really reflect kind of the ongoing expense associated with storm costs, pretty much like an insurance. That still will not insulate us from -- or will not allow us to cover all of the costs associated with a really major storm, which is when you would use the storm bond or storm securitization.

And we have a witness, Witness Harris, and also our chief financial officer will kind of walk you through all of that, but it is one of the components of our base rate increase. It is $150 million that we think should be part of kind of the ongoing rates.

CHAIRMAN CARTER: And let me do this, because I wouldn't want you guys to pass out. We didn't get approval for the air conditioning beyond 5:30. And, I mean, I like you guys, but, you know, I really don't want to smell you. Let's do this. It will be tomorrow before we figure out whether or not we are making any progress, and I will check with DMS and see if we can get an extended time tomorrow.

I know you probably have some more cross-examination, as well as the rest of the parties. But let's do this in all fairness to DMS, we are going to contact them tomorrow asking to give us an extended time so that we can have air conditioning as well as --

so you guys can prepare your case. I wouldn't want anyone to be rushed through this. Take your time. It is an important issue. You heard my comments this morning, and I want everyone to have an opportunity for a fair hearing of the cases. And with that, Commissioners, we will see you tomorrow at 9:30.

Thank you.

(Hearing adjourned at 5:32 p.m.)

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 27th day of August, 2009.

Jane Faurot

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